

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS,

v.

KAREN READ.

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Docket No. 2282CR00117

BEFORE THE HONORABLE BEVERLY CANNONE
MONDAY, JUNE 10, 2024
TESTIMONY OF NICK BARROS and MICHAEL PROCTOR

APPEARANCES:

For the Commonwealth:
BY: ADAM LALLY, A.D.A.
LAURA MCLAUGHLIN, A.D.A.

For the defendant:
BY: DAVID YANNETTI, ESQ.
ALAN JACKSON, ESQ.
ELIZABETH LITTLE, ESQ.

Dedham, Massachusetts
Room 25

Christine D. Blankenship, CVR
Court Reporter/Transcriber

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(By Mr. Lally) 5

Michael Proctor
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For identification:

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1 (Court in session.)

2 (Defendant is present with counsel.)

3 (Jury in.)

4 NICHOLAS BARROS, sworn

5 THE COURT: All right. Whenever you're ready, Mr.
6 Lally.

7 MR. LALLY: Thank you, Your Honor.

8 **DIRECT EXAMINATION**

9 **BY MR. LALLY:**

10 Q Good morning, sir.

11 A Good morning.

12 Q Could you please state your name and spell your
13 last name for the jury.

14 A Nicholas Barros, B-A-R-R-O-S.

15 Q And how you employed, sir?

16 A With the Town of Dighton.

17 Q And what, if any, role or what do you do for the
18 Town of Dighton?

19 A I'm a police sergeant for the police department.

20 Q And how long in total have you been a member of
21 the Dighton Police?

22 A In total, I started in 2011. Fourteen years this
23 December.

24 Q And how long have you had the rank of sergeant
25 with the Dighton Police?

1 A A year and a half.

2 Q Now, if I could direct your attention to January
3 29, 2022. Do you recall that date?

4 A I do.

5 Q And were you working that date?

6 A I was.

7 Q And do you recall what kind of shift you were
8 working on that occasion?

9 A I was working the 8:00 to 4:00, the dayshift.

10 Q And was that the only shift that you had worked on
11 that occasion or how long had you been on shift by the
12 time you came on for the 8:00 to 4:00?

13 A That particular day, I was working from 8:00 a.m.
14 to midnight. I was on a double.

15 Q Now at some point when you first came in, with
16 reference, if you could explain to the jury just
17 briefly or in general terms, when you come on shift for
18 the Dighton Police, what, if any, communication -

19 Well, first and foremost, what was your role as
20 far as that particular shift was concerned?

21 A I was the officer in charge that day from 8:00
22 a.m. to midnight. When I came in at 8:00 a.m., the
23 outgoing shift, the midnight to 8:00 shift, had advised
24 me that a resident had called the police station on a
25 911 call requesting a ride to Brockton Hospital to meet

1 his daughter due to her daughter's boyfriend passing
2 away, and he needed a ride due to the snowstorm.

3 Q And then as your shift continues, what, if any,
4 further contact or who, if anyone, reached out to you
5 in regard -- in regard to that earlier situation?

6 A Later on, I believe it was around 2:30 in the
7 afternoon, I received a phone call from the Norfolk
8 District Attorney's Office with the troopers assigned
9 there, and they had stated that they were going to come
10 to Dighton to retrieve a vehicle that was involved in a
11 homicide.

12 Q And did they give you a specific address as far as
13 where they were going?

14 A I believe the address was 345 Country Hill Drive
15 in Dighton, North Dighton.

16 Q And with regard to that address, what, if
17 anything, did you recognize between that and the
18 earlier call that you were just speaking of?

19 A That was the address that came up on the 911 call
20 when that gentleman had called earlier on the prior
21 shift.

22 Q And at some point, did you come to find out who
23 the residents were at that address on Country Hill
24 Lane?

25 A I did.

1 THE COURT: Okay.

2 Q And who did you find them to be?

3 A It was the Read residence.

4 THE COURT: All right. So, Sergeant, I'm going to
5 ask you to keep your voice up, and, Mr. Lally, you,
6 too. Okay.

7 Q And the Read residence, was that a William and
8 Janet Read; is that correct?

9 A Correct.

10 Q Now, as far as you received that call at about
11 2:30. Do you know specifically who you spoke to around
12 2:30 in the afternoon?

13 A Trooper Michael Proctor.

14 Q And as far as that earlier information that you
15 were talking about with the 911 call, what, if
16 anything, from that did you in part to Trooper Proctor?

17 A I advised Trooper Proctor that we did receive a
18 911 call on the midnight to 8:00 shift about the
19 resident looking to get a ride to Brockton Hospital.

20 Q And during that initial call, how was it sort of
21 left as far as what, if anything, you were going to
22 provide as far as assistance or with regard to the
23 troopers on that first call?

24 A On the first call, the troopers had just asked me
25 if I could meet them at that residence as a courtesy

1 since they were coming into my jurisdiction.

2 Q And what, if anything, did they indicate to you as
3 far as where they were or when they felt they would be
4 arriving in that area?

5 A Trooper Proctor advised me that they were heading,
6 I believe, from Canton, and once they were about ten
7 minutes away, they would recontact me so that I could
8 meet them at the residence.

9 Q And subsequently later in that afternoon, did you
10 receive further contact from Trooper Proctor?

11 A I did.

12 Q And do you know about what time that was?

13 A I believe the first phone call was around 3:00
14 p.m. that he called me and said they would be there in
15 about ten minutes.

16 Q And upon receiving that call, what, if anything,
17 did you do?

18 A I had contacted -- Trooper Proctor had asked me to
19 contact our tow company to have them meet us at the
20 residence as well, and I said once I hung up with him,
21 I would contact the tow company and then respond to
22 that address on Country Hill Drive.

23 Q Is there a specific tow company that the Dighton
24 Police uses with regard to towing vehicles within the
25 town?

1 A During that period, it was Diamond Towing.

2 Q And so did you contact someone at Diamond Towing
3 in reference to responding to that address as well?

4 A I did. I contacted the owner and he responded.

5 Q Now as far as that area of Dighton, if you could
6 explain to the jury sort of what you observed as you
7 were coming down towards that residence on that date?

8 A So when I responded to that address, the address
9 is -- that street is off of 138. When I turned onto
10 Country Hill Drive, I was traveling west. When I
11 arrived on that street, I observed a black pickup truck
12 parked on the street facing east. I was flagged down by
13 that black pickup truck by the driver and was told that
14 they were the troopers that I had spoke to - Trooper
15 Michael Proctor and the other sergeant.

16 Q The sergeant that left the room as you were coming
17 in?

18 A Correct.

19 Q And what, if any, identification did they provide
20 to you in reference to that?

21 A They showed me their ID and their badges.

22 Q And then from there, where did -- where did you
23 proceed?

24 A I had parked my marked police vehicle at the end
25 of the driveway since it was a snowstorm and we could

1 not get into the driveway, and then we walked up to the
2 residence.

3 Q And so when you say it was a snowstorm and we
4 couldn't get into the driveway, can you expound upon
5 that a little as far explain to the jury why it was
6 that you couldn't get in the driveway?

7 A It was about a foot of snow in the driveway.

8 Q As far as that snow that you observed when you
9 arrived there, was that snow -- how did that snow
10 appear as far as -- did it appear is if it had been
11 shoveled or snow blown or untouched or how did it
12 appear?

13 A It was untouched.

14 Q Now as you're going through the snow, and correct
15 me if I'm wrong, but it's yourself, Trooper Proctor,
16 and the sergeant from the state police. Who, if anyone
17 else, is going along with you?

18 A I had an officer that was field training with me
19 that day, and he was with me as well and we went up to
20 the residence.

21 Q And as you're walking up to the residence, what,
22 if anything, did you come upon as you're going towards
23 say any door or getting closer to the home?

24 A I remained at the garage. The two troopers went
25 to the front door and made contact with the homeowner.

1 Q Now as far as you were there specifically for a
2 vehicle, correct?

3 A Correct.

4 Q Did you observe a vehicle in the driveway at any
5 time?

6 A Yes, we observed a black Lexus SUV in the
7 driveway.

8 Q And what, if any, observations did you make to the
9 rear area of that vehicle, specifically?

10 A At first, I did not go up to the vehicle. I just
11 remained at the driveway and waited for the troopers to
12 come back. And once I came back, they were let into
13 the house through the garage. I had walked in with them
14 briefly, and then went back out to the garage and
15 remained with the vehicle.

16 Q And as far as at any point in time did you have
17 any conversation with anyone named Karen Read that day
18 while you were at the house?

19 A I did not.

20 Q Now, with respect to -- you come back out to the
21 garage; is that correct?

22 A Correct.

23 Q And the troopers are inside the house; is that
24 also correct?

25 A Correct.

1 Q Now, at some point do other vehicles come down to
2 the driveway area of this residence that you were at?

3 A I had contacted the highway superintendent after
4 speaking with the troopers about how to retrieve the
5 vehicle. Since the driveway was untouched and had
6 about a foot of snow, I had made the decision that we'd
7 call the highway superintendent and see if that he
8 would come and plow the driveway so that the tow truck
9 would have access inside in -- in the driveway.

10 Q And just in reference to this driveway, if you
11 could, it's not exact footage or anything, but how
12 close is this Lexus SUV parked in relation to the
13 roadway, how long is that driveway?

14 A It's got to be about 150 feet off the roadway, if
15 not more.

16 Q And if you recall from where you're standing at
17 the point of the garage, what part of the vehicle was
18 facing you? Was it the front of the vehicle, the back
19 of the vehicle, the side of the vehicle, if you know?

20 A I was looking at the left side of the vehicle.

21 Q And at some point, did you make any observations
22 of the right rear part of that Lexus SUV?

23 A I did.

24 Q And what, if anything, did you observe about that
25 area of the vehicle?

1 A I saw that there was some damage to the right rear
2 taillight. To my best ability and recollection that
3 taillight was not completely damaged. It was cracked
4 and that a piece was missing but not completely
5 damaged.

6 Q And then beyond the taillight area of that vehicle
7 what, if anything, else did you observe as far as
8 damage to the rear passenger side area of the vehicle?

9 A Like a dent on the rear quarter.

10 Q And as far as the dent on the rear quarter of the
11 panel that you saw, was that above the taillight, below
12 the taillight, or something else?

13 A It's probably right in conjunction with the
14 taillight in that same area.

15 Q And from the time that you made these observations
16 of the vehicle, at any point did you go sort of
17 physically up to the vehicle?

18 A I walked up to the vehicle, correct.

19 Q And about how far away from the vehicle did you
20 get?

21 A Five to ten feet away.

22 Q And as far as the sort of outside or exterior of
23 the vehicle, you mentioned, obviously there was about a
24 foot of snow on the ground. What, if anything,
25 precipitation-wise or weatherwise was around the or on

1 the outside of the vehicle?

2 A Just snow.

3 Q And in particular in this area of the right rear
4 passenger side and that taillight, was there any snow
5 or ice or anything around that area that you observed?

6 A On the vehicle itself?

7 Q Yes.

8 A Yes, on the vehicle there was snow on the vehicle.

9 Q And not to put words in your mouth, but sort of
10 caked on there; is that correct?

11 A I guess you could say caked on, correct.

12 Q So you had reached out to the highway
13 superintendent to have someone come out and plow the
14 driveway, correct?

15 A Correct.

16 Q And do you know about how long it was between the
17 time that you made that call and the time that the plow
18 driver came out to clear it?

19 A Less than ten minutes.

20 Q And the sort of clearing of the driveway and the
21 process of that, do you know about how long that took?

22 A I'd say another ten minutes or so.

23 Q And as far as the time that the troopers went into
24 the house, at some point the troopers obviously came
25 out of the house, correct?

1 A Correct.

2 Q Do you know about how long it was that they were
3 inside the house?

4 A More than 30 minutes, less than an hour.

5 Q Now at any point in time that while you were
6 there, did you yourself or did you see anyone else
7 touching or making any contact or manipulating or
8 anything in that rear passenger side area of either the
9 taillight or the dent that you observed?

10 A I did not.

11 Q And I'm sorry, I talked over you.

12 A I did not.

13 MR. LALLY: If I may have a moment, Your Honor.

14 THE COURT: Yes.

15 MR. LALLY: Thank you, sir. I have no further
16 questions.

17 THE COURT: Okay. Cross-examination.

18 MS. LITTLE: No, Your Honor.

19 THE COURT: All right, Sergeant Barros. You are
20 all set, sir.

21 THE WITNESS: Thank you.

22 THE COURT: Are you going to call another witness
23 or morning recess?

24 MR. LALLY: Morning recess, but, Your Honor, if I
25 could just, either before or after, I just need to

1 address one thing with the Court at sidebar.

2 THE COURT: All right. So we'll send the jurors
3 out. Jurors, why don't we take the morning recess.
4 (Jury out.)

5 MR. LALLY: Just in reference to -- and I know I
6 think they have a difference of opinion as far as
7 interpretation of this goes, but my interpretation of
8 the protective order is it does not permit for
9 displaying materials. We can use the materials with
10 the witness and show them to the witness, but as far as
11 displaying materials or anything even filed with the
12 Court has to be filed under seal, so I don't believe
13 that -- I mean it's for the use of the materials in
14 that way, and I don't intend to use them in that way
15 for that reason.

16 MR. JACKSON: I agree that anything filed needs to
17 be filed under seal, but I don't read anything in the
18 protocol that was set up by the district judge that
19 this be restricted as long as you use the items in the
20 trial in the courtroom. If we file something, we have
21 all followed that instruction that we file it under
22 seal, however, displaying it to the jury that's -- it
23 is what it is. Once it goes to the jury, it can't be
24 sealed. It shouldn't be sealed. It's part of the
25 record. It's part of an open record. So I don't think

1 it's an impediment. I wouldn't have any objection if
2 Mr. Lally chose to use it. If he doesn't choose to
3 use, I will take the responsibility of using it, and if
4 it's in violation of something that a magistrate -- or
5 not a magistrate judge -- a district judge indicated,
6 then that district judge can take it up with me and
7 I'll take the heat. I want to try the case, and I
8 don't see anything in the --

9 THE COURT: And I have said all along, my interest
10 is let's try to adhere.

11 MR. JACKSON: Right.

12 THE COURT: So, Mr. Lally, if you think that you
13 need to use them, I'm concerned about the trial here.
14 I don't want you to forego anything either side is
15 doing based on maybe not being clear on what the
16 federal order wants you to do, but I'm concerned about
17 the trial here.

18 MR. JACKSON: As am I.

19 THE COURT: So you could get clarification if you
20 want or spend the next half hour of your break trying
21 to reach people over there.

22 MR. LALLY: No, no, I --

23 THE COURT: If --

24 MR. LALLY: -- confident in my interpretation of
25 it. And I can do it without putting things on the

1 screen. I don't need to put things on the screen.

2 THE COURT: Okay. Then I'll leave it with you.

3 MR. LALLY: Okay.

4 MR. JACKSON: So I'm not getting any restriction?

5 THE COURT: I'm not restricting anything.

6 MR. JACKSON: Okay.

7 THE COURT: I mean, you've said that you'll take
8 responsibility for any violation the federal court --

9 MR. JACKSON: Absolutely.

10 THE COURT: -- may find.

11 MR. JACKSON: Absolutely.

12 THE COURT: But I do want to ask because I'm
13 concerned about this case, do you think because we can
14 wait and get clarification if need be. Do you think
15 that the defendant, using what you say he can't produce
16 or publish to the jury, impacts the trial of this case
17 in anyway, that's my concern with all due respect to
18 the --

19 MR. LALLY: Mm-hmm. No, I --

20 THE COURT: -- protective order, I'm concerned
21 about this case.

22 MR. LALLY: No, no. I mean, I think that's -- I
23 think Your Honor has obviously control over that.

24 THE COURT: All right. And in the same vein, if
25 the defense is going to use it, I'm telling you, you

1 have my permission to use it in the trial of this case,
2 and it's paramount at this time.

3 MR. JACKSON: I appreciate that, Your Honor.

4 THE COURT: If that helps.

5 MR. JACKSON: It does help, a lot.

6 THE COURT: Okay.

7 MR. LALLY: Thank you, Your Honor.

8 end of sidebar.)

9 THE COURT: All right. So we'll take about a half
10 hour break.

11 (Court in recess.)

12
13
14
15 (Court in session.)

16 (Defendant is present with counsel.)

17 (Jury in.)

18 THE COURT: All right. Mr. Lally, your next
19 witness, please.

20 MR. LALLY: Yes, Your Honor. The Commonwealth
21 would call Trooper Michael Proctor to the stand.

22 MICHAEL PROCTOR, sworn

23 THE WITNESS: Good morning, Your Honor.

24 THE COURT: Good morning.

25 THE WITNESS: Good morning, jurors.

1 THE COURT: All right. Mr. Lally, whenever you're
2 ready.

3 MR. LALLY: Thank you, Your Honor.

4 **DIRECT EXAMINATION**

5 **BY MR. LALLY:**

6 Q Good morning, sir.

7 A Good morning, sir.

8 Q Could you please state your name and spell your
9 last name for the jury?

10 A Yeah, Trooper Michael Proctor, P-R-O-C-T-O-R.

11 Q And how are you employed, sir?

12 A I am currently assigned to the Norfolk County
13 District Attorney's Office in the homicide unit within
14 the Massachusetts State Police.

15 Q And how long --

16 THE COURT: Trooper, I'm going to ask you to keep
17 your voice up loud, okay?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Thank you.

20 Q And, sir, if you want that microphone in front of
21 you is adjustable so however close or far away you want
22 it?

23 How long have you been a trooper with the state
24 police?

25 A For over ten years. It'll be five years in

1 September with the homicide unit.

2 Q Now with reference to your work with the homicide
3 unit with the detective unit in the district attorney's
4 office what, if any, specialized training did you
5 receive in regard to your work within that unit?

6 A I've attended several homicide schools. I've also
7 been certified in Cellebrite software programming.
8 I've also, in addition to homicide investigations, have
9 worked in the -- within the narcotics unit on several
10 different investigations there as well.

11 Q Now, with respect to your work with the detective
12 units as far as you have sort of an on-call system?

13 A We do.

14 Q And can you explain to the jury sort of how that
15 works or how those specific days for your on-call
16 duties are assigned?

17 A Sure. So a sergeant, Sergeant Bukhenik, usually
18 sets the on-call rotation. It's at random. And your
19 on-call is from 7:00 a.m. to 7:00 a.m. Any unattended
20 death, homicide, suicide, overdose, things of that
21 nature that comes in during that time frame, you own
22 it. That's your call.

23 Q Now, were you working in that capacity with the
24 detective units on January 29, 2022?

25 A Yes.

1 Q And at some point in the morning did you receive a
2 call in regards to a situation in the town of Canton?

3 A I did.

4 Q And what, if anything, was that -- when did you
5 first receive that call, Trooper?

6 A Sergeant Bukhenik called me approximately 6:48
7 that Saturday morning advised that Canton PD had a male
8 party that was discovered in the snow outside of a
9 residence, and he wasn't sure what had happened. He --
10 it was originally given to me as a possible medical
11 situation.

12 Q And based on that initial call and that initial
13 information that you received, what, if anything, did
14 you do?

15 A At that point I knew I needed to gather further
16 information so I contacted Detective Lank from Canton
17 Police Department to see exactly what transpired in the
18 morning. He had informed me that a male party had been
19 transported to Good Samaritan Hospital with some
20 injuries. Detective Lank didn't have much more
21 information, so I knew I needed to contact the
22 paramedic at the hospital, the individuals treating Mr.
23 O'Keefe.

24 Q Let me get to that if I could, I'm sorry.

25 As far as Detective Sergeant Lank was concerned,

1 was that someone that you called on your own, or how
2 did you get his information or why did you call him
3 specifically?

4 A I knew he was on scene so I called Detective Lank.

5 Q So that was some information that you had received
6 at some point earlier and then you contacted the victim
7 -- excuse me -- Detective Sergeant Lank?

8 A Correct.

9 Q And following that, you reached out to who? I'm
10 sorry.

11 A Firefighter Anthony Flumatti.

12 Q And with reference to that conversation what, if
13 anything, did you learn from that?

14 A Firefighter Flumatti informed me that --

15 MR. JACKSON: Objection.

16 THE COURT: I'm going to allow it.

17 A Firefighter Flumatti informed me that Mr. O'Keefe
18 had some injuries to his right arm, some abrasions to
19 his right arm, some injuries to his eyes, a cut to the
20 nose area, and he put a ten percent chance of survival
21 for Mr. O'Keefe.

22 Q And based on that information, who did you call
23 next?

24 A I contacted Sergeant Bukhenik, advised him that
25 this sounds like it's more than a medical situation.

1 Q And what, if any, decision did you and Sergeant
2 Bukhenik come to with regard to what to do or where to
3 go or what the next step should be.

4 A So there was a couple of different steps. Number
5 one, it was blizzard conditions, and we operate, you
6 know, Ford Fusions or Chevy Malibus, so we got
7 authorization to use our personal vehicles that are
8 four-wheel-drive and to meet at Canton PD and to speak
9 with the responding officers.

10 Q And about what time was it that you and Sergeant
11 Bukhenik arrived at the Canton Police Department?

12 A It was approximately 10:00 a.m. that morning.

13 Q And so, Trooper Proctor, if I could, whereabouts
14 were you at about 8:22 in the morning?

15 A Home.

16 Q Had you shoveled out your driveway at that time?

17 A Not yet.

18 Q Had you cleaned off your car at that time?

19 A No.

20 Q So you arrived at the Canton police station about
21 10:00 a.m. or so. When was it that you arrived in
22 relation to Sergeant Bukhenik, if you know?

23 A At Canton PD?

24 Q Yes.

25 A I don't recall if Sergeant Bukhenik arrived first

1 or myself.

2 Q But suffice it to say, at some time you both
3 arrived around 10:00 a.m.; is that correct?

4 A Yes, sir.

5 Q And where did you go at the Canton police when you
6 arrived there?

7 A We spoke with Sergeant Sean Goode.

8 Q And what, if anything, did you learn from Sergeant
9 Goode?

10 A Sergeant Goode informed us that while he was on
11 scene, he identified Kerry Roberts, Jennifer McCabe,
12 Karen Read. He also informed us that Jennifer McCabe
13 was out earlier in the night at a Waterfall bar in
14 Canton with some individuals and that she was the one
15 who called 911 when they found Mr. O'Keefe in the snow
16 that morning.

17 A Now with regard to the parties that you just
18 mentioned, prior to January 29, 2022, had you ever met
19 or were you aware of either Jennifer McCabe or Kerry
20 Roberts or Karen Read or John O'Keefe?

21 A I never met any of them.

22 Q And at some point subsequent, did you have
23 occasion to meet and speak with Ms. Read?

24 A Yes.

25 Q And do you see Ms. Read in the courtroom today?

1 A I do.

2 Q Just for clarification purposes, if you could
3 identify as to where she's seated, or an article of
4 clothing that she's wearing.

5 A She's seated between Mr. Jackson and Mr. Yanetti
6 wearing a pinstriped sportscoat.

7 MR. LALLY: Your Honor, I'd just ask the record
8 reflect identification of the defendant.

9 A Yes.

10 Q Now, after you speak with Sergeant Goode, did you
11 speak with anybody else at the Canton Police Station?

12 A No.

13 Q And where did yourself and Sergeant Bukhenik go
14 from there?

15 A We then traveled to the home of Matthew and
16 Jennifer McCabe.

17 Q Now, with reference to when I say you and Sergeant
18 Bukhenik, at how long period of time was it that you
19 were with Sergeant Bukhenik on that date of January 29?

20 A From 10:00 a.m. approximately we met at Canton
21 Police Department until when we returned to the Canton
22 Police Department that afternoon around 5:30 in the
23 afternoon. So all day and we had a debrief meeting
24 with just the troopers in my office at Canton PD. So
25 at least from 10:00 to 6:00, 7:00 because we also went

1 back to the office with some evidence.

2 Q And so from that entire time from 10:00 in the
3 morning until later on in the night other than maybe
4 short drives in individual cars, were you essentially
5 with Sergeant Bukhenik that entire day?

6 A Yes. We used Sergeant Bukhenik's pickup truck
7 that entire day. I left my personal vehicle at the
8 police department and I rode with Sergeant Bukhenik all
9 day and into the evening.

10 Q Now, from the Canton police station, where did you
11 and Sergeant Bukhenik go?

12 A The McCabe's house in Canton.

13 Q And who, if anyone, did you speak with there?

14 A We spoke with Matthew and Jennifer McCabe as well
15 as Brian Albert.

16 Q And those interviews that you conducted, were they
17 sort of -- how were they conducted?

18 A One-on-one. Sergeant Bukhenik and myself kind of
19 rotated out Jennifer, Matthew, and Brian. So first we
20 interviewed Jennifer and then once that was completed,
21 we had her step out, go to a separate room, brought in
22 Matthew, and then the same thing with Brian.

23 Q And for the balance of the interviews that you
24 conducted, you conducted several interviews over the
25 course of your investigation of this case; is that

1 correct?

2 A Correct.

3 Q And for those interviews as far as individually
4 done, was that primarily what you did with each of the
5 people that you interviewed over the course of the
6 investigation?

7 A Yes, each interview conducted was either one with
8 Sergeant Bukhenik or another trooper in one-on-one,
9 with the exception of Julie and Chris Albert, I believe
10 were in the same room as us.

11 Q Now, with respect to I believe you just answered
12 it, but as far as each of the interviews that you
13 conducted over the course of your investigation, was it
14 at any point in time was there an interview that you
15 conducted just by yourself?

16 A There was just one.

17 Q And who was that one that you conducted by
18 yourself?

19 A That took place just at the grand jury across the
20 street. It was the Currans. I had some difficulty
21 locating them. So when they appeared for grand jury, I
22 interviewed them one-on-one by myself prior to their
23 testimony at grand jury.

24 Q You had attempted to meet them prior to coming to
25 the grand jury; is that correct?

1 A Yes.

2 Q And they had not been responsive to that?

3 A Correct.

4 Q However, they were responsive to the summons, and
5 so you interviewed them before they went into the grand
6 jury, correct?

7 A Yes.

8 Q Okay. Other than those as far as Mr. and Mrs.
9 Curran, every interview that you conducted was in the
10 presence of at least one other trooper?

11 A Correct.

12 Q Now, as far as you mentioned one name that we
13 hadn't discussed before at the McCabe household, a
14 Brian Albert, prior to January 29, 2022, had you ever
15 met or were you aware or did you know Brian Albert?

16 A I never met Brian Albert until that interview.

17 Q Now, following the interviews that you conducted
18 at the McCabe household, where did you go from there?

19 A After the interviews at the McCabe household,
20 Sergeant Bukhenik and I traveled to Good Samaritan
21 Hospital for two reasons. One, we knew for Ms. Read
22 was there receiving treatment for a Section 12, and
23 two, we wanted to view Mr. O'Keefe.

24 Q And when you arrived at the Good Samaritan
25 Hospital, was the defendant, Ms. Read, still at that

1 facility at that time?

2 A We had spoke with the security staff at Good
3 Samaritan Hospital. They informed us that Ms. Read was
4 released.

5 MR. JACKSON: Objection.

6 THE COURT: I'll allow it just as to where you
7 went.

8 A Then Ms. Read was released several hours prior to
9 our arrival.

10 Q And do you know about what time it was that you
11 arrived, yourself and Sergeant Bukhenik, at the Good
12 Samaritan?

13 A Maybe approximately one o'clock.

14 Q And you mentioned there was a second reason, and
15 that was to view Mr. O'Keefe, correct?

16 A That's correct.

17 Q And did you have occasion or did you have a chance
18 to view Mr. O'Keefe's body at the Good Samaritan?

19 A We did.

20 Q And where was that within the hospital?

21 A That was in the emergency room.

22 Q And when you went to where Mr. O'Keefe was, can
23 you describe for the jury what, if any, observations
24 you made of Mr. O'Keefe's body at the time that you
25 observed him?

1 A The first thing I noticed on Mr. O'Keefe is he had
2 abrasions on his right arm. On the top of his right
3 arm, there was approximately six to eight ranging from
4 his forearm to his lower bicep. There was no injuries
5 underneath that forearm. Both eyes were swollen and
6 black and blue. He had a cut on I believe it was his
7 right nostril, another smaller cut I believe it was on
8 his left eye. Those were the injuries that kind of
9 jumped out to me.

10 Q At any point in time, did you make any
11 observations of the back of Mr. O'Keefe's head while
12 you were there?

13 A I did observe blood on the back of the head. I
14 wasn't able to tell if there was any significant trauma
15 to the back of his head.

16 Q Now, from the Good Samaritan Hospital, yourself
17 and Sergeant Bukhenik, what, if any, items did you
18 secure in evidence from the Good Samaritan Hospital?

19 A So after we viewed Mr. O'Keefe's body, we observed
20 a pile of clothes in the corner that the hospital staff
21 had cut off Mr. O'Keefe and kind of piled into the
22 corner. The one thing that had jumped out to both of
23 us was one sneaker, and it's fairly common in a motor
24 vehicle pedestrian strike that --

25 MR. JACKSON: Objection.

1 THE COURT: Sustained. Next question.

2 MR. JACKSON: Move to strike.

3 THE COURT: I'll strike the "fairly common". The
4 observations will come in.

5 Q As far as the clothing that you observed, can you
6 describe the clothing that you observed?

7 A Yes. We observed one black sneaker with the Nike
8 logo, a pair of blue jeans, a belt, boxer shorts, an
9 orange T-shirt, and a two-tone gray light kind of
10 hooded sweatshirt type of material.

11 Q Now, Trooper Proctor, over the course of your
12 career responding to unattended deaths or death
13 investigations as a member -- as a detective of the
14 unit, how many of those have involved situations where
15 a pedestrian was struck by a motor vehicle?

16 A While I've been in the unit, maybe three or four,
17 and I've had other experiences on the road.

18 Q And as far as the other experiences on the road,
19 can you expound upon those as far as how many or over
20 what time period we're talking about?

21 A It was about six years I spent on the road, so
22 maybe another three or four.

23 Q And with reference to -- with reference to those
24 pedestrian crashes, what, if anything, had you seen in
25 those prior investigations in regard to sneakers or

1 footwear of pedestrians involved in motor vehicle
2 crashes?

3 MR. JACKSON: Objection.

4 THE COURT: I'm going to see you at sidebar on
5 this.

6 (Sidebar commences:

7 THE COURT: Your objection.

8 MR. JACKSON: Relevance. You know, talk about
9 relevance and foundation, both. He's not an expert on
10 motor vehicle pedestrian accidents or incidents, and he
11 can't talk about anecdotal events. What happened in
12 other incidents has no bearing what may or may not
13 happened in this instance.

14 THE COURT: What do you say, Mr. Lally?

15 MR. LALLY: Your Honor, what I say is this
16 witness, especially with his experience on the road as
17 a trooper, is he's had experience with pedestrian
18 crashes. There's a well-known phenomenon with regard to
19 pedestrians being tossed out of their shoes in the
20 course of pedestrian crashes, and that's what, you
21 know, the significance of the one shoe to this
22 particular trooper as he made those observations in the
23 hospital, which then led to some of the subsequent
24 searches, obviously, later that day when the other shoe
25 was located in the area of the crash.

1 THE COURT: I'm going to allow it because it goes
2 to the steps they took in their investigation which has
3 been challenged from the first witness on.

4 MR. JACKSON: I have obviously to make a record
5 and would like to make my record complete. I have
6 absolutely no problem with him saying based on the fact
7 that we found one shoe, we searched for the other shoe.
8 If he had an absolute theory that a motor vehicle was a
9 cause of the other shoe is going to be missing, of
10 course he's going to look for the other shoe because
11 there's only one shoe found.

12 THE COURT: Right.

13 MR. JACKSON: But this is a backdoor way of
14 getting in some expertise that he clearly does not
15 have, clearly.

16 THE COURT: Okay. The objection is overruled.
17 end of sidebar.)

18 MR. LALLY: May I proceed, Your Honor?

19 THE COURT: Yes.

20 Q Now, with reference to your prior experience with
21 pedestrian crashes involving motor vehicles, what, if
22 any, observations that you made on those prior
23 occasions in regard to the footwear with respect to the
24 pedestrians and motor vehicle crashes?

25 A In those experiences, I've observed one if not

1 both pieces of footwear remained at the point of
2 impact.

3 Q And so with respect to your observations of the
4 clothing, there only being one sneaker of Mr. O'Keefe's
5 property, what, if any, significance did that have to
6 do you as far as the sort of steps you took subsequent
7 in your investigation?

8 A That was just a little piece of evidence that
9 Sergeant Bukhenik and I picked up that only one piece
10 of footwear revealed the potential of a vehicle strike.

11 Q Now, in addition to Sergeant Bukhenik is one of
12 your supervisors within the detective unit; is that
13 correct?

14 A Yes.

15 Q And is another a Lieutenant Brian Tully?

16 A That's correct.

17 Q Now, with respect to the one sneaker that was
18 found in Mr. O'Keefe's property, what, if anything,
19 with regard to that did you communicate to Lieutenant
20 Tully?

21 MR. JACKSON: Objection.

22 THE COURT: As to how it goes to the
23 investigation?

24 MR. JACKSON: Yes.

25 THE COURT: I'll allow it.

1 A Sergeant Bukhenik and I informed Lieutenant Tully
2 that there was one shoe at the hospital.

3 Q And with respect to Detective Lieutenant Tully,
4 are you aware that subsequently in the afternoon that
5 there was a search that was conducted in the area of 34
6 Fairview Road where Mr. O'Keefe was found?

7 A Yes.

8 Q And are you aware of what, if anything, was
9 recovered in the area where Mr. O'Keefe was found on
10 that day?

11 MR. JACKSON: Objection.

12 THE COURT: I'll allow it as to the investigation.

13 A Yes.

14 Q And what are you aware of?

15 A We were informed -- Sergeant Bukhenik and I were
16 informed that SERT team and Detective Lieutenant Tully
17 discovered a black Nike sneaker with a white swoosh
18 logo that was a match to Mr. O'Keefe's shoe at the
19 hospital.

20 Q Now, from these items of clothing -- I'm sorry.
21 Let me just let that siren go by.

22 Trooper, in addition to the shoe that you've
23 already referenced what if anything else did you
24 observe about what kind of clothing and the condition
25 of the clothing that you observed at the hospital?

1 A The clothing seemed -- it was wet. It was pretty
2 well saturated. The right sleeve had some like cuts to
3 it, like tears to it. There was blood and vomit on it,
4 if I recall. Those were the observations I had made of
5 the clothing. It may have been cut due to first
6 rendering first aid as well as in the pants area.

7 Q Now, subsequent to viewing these clothing items at
8 the hospital at a later time, did you have an occasion
9 to observe surveillance video from a variety of places
10 on the evening of January 28, into the early morning of
11 January 29, depicting Mr. O'Keefe?

12 A Yes.

13 Q And what, if anything, did you note with regard to
14 the clothing that you observed at the hospital and the
15 clothing that you observed in the video?

16 A So the videos I reviewed at C.F. McCarthy's bar
17 and the Waterfall bar were the same clothes Mr. O'Keefe
18 was wearing that Sergeant Bukhenik and I had secured at
19 the Good Samaritan Hospital.

20 Q Now, Trooper, I'm going to ask you some question
21 just in regard to -- just in regards to securing these
22 items specifically as evidence, but in general terms as
23 far as securing items in evidence within your unit, how
24 is that accomplished, how is that done, what do you do
25 with items that you deem of evidentiary value that you

1 then secure?

2 A Generally, if we take an item for evidence, we'll
3 put it in a brown paper bag, document it, time, date,
4 who secured that item, address, where it was
5 discovered, and then we'll bring that back to our
6 office to the evidence processing area.

7 From there, it will go to a permanent evidence
8 room that is -- has triple retention. It has an actual
9 key, a key card, and an actual access code and only
10 three members of my office have access to that room -
11 the two evidence officers and Detective Lieutenant
12 Tully.

13 Q And at this time on January 29, 2022, who was
14 assigned as the evidence officers who had access to
15 that room?

16 A So that would be Trooper David DiCicco and Trooper
17 Jeffrey Kotkowski.

18 Q Did either yourself or Sergeant Bukhenik have any
19 access to that evidence room?

20 A No.

21 Q Now, with reference to these items that were
22 seized and say items that were seized subsequent during
23 the course of your investigation, did they go through
24 that same sort of evidentiary storage process that you
25 were speaking about before?

1 A Yes.

2 Q Now, with reference to -- in addition to the
3 clothing items, at some point did you come into
4 possession and seize Mr. O'Keefe's phone?

5 A Yes.

6 Q And do you recall where it was that you received
7 or retrieved Mr. O'Keefe's phone from?

8 A We received it at the Canton Police Department.

9 Q And was that prior to you going to the Good
10 Samaritan?

11 A After I believe.

12 Q After. So following the Good Samaritan, where did
13 you go from there?

14 A So after the Good Samaritan Hospital, Sergeant
15 Bukhenik and I traveled to 345 Country Hill Drive in
16 Dighton.

17 Q And why did you go to that location?

18 A That was the residence of Ms. Read's parents'
19 home, and having a brief conversation with Ms. Read on
20 the phone, she informed us she was at her parents'
21 house.

22 Q So you had called Ms. Read, spoken to her, and
23 informed her that you coming there to speak with her,
24 correct?

25 A Correct.

1 Q And just as you had done with Ms. McCabe, Mr.
2 McCabe, you spoke to Ms. Read within her home?

3 A Yes.

4 Q And who, if anyone, else did you reach out to on
5 your way there with regard to local law enforcement as
6 you were driving to not Dighton?

7 A We contacted the Dighton Police Department just
8 for a couple reasons. One, it's a common courtesy. If
9 we're in another town, we just kind of give the local
10 PD a heads up. But also we needed to coordinate a plow
11 truck and potentially a tow truck as well.

12 Q And why did you need to coordinate those?

13 A At the time, there must've been at least a foot of
14 snow on the ground more, and it was a dead-end cul-de-
15 sac so which made it difficult to navigate. So we
16 requested the plow to clear a path for Sergeant
17 Bukhenik and I to get down the roadway as well as clear
18 the driveway of the residence so the tow truck could
19 pull into the driveway.

20 Q Now as far as the drive from Good Samaritan --
21 that's in Brockton; is that correct?

22 A Yes.

23 Q As far as the drive from the Good Samaritan in
24 Brockton to the defendant's parents' home in Dighton,
25 about how long a drive was that and how would you

1 describe the weather conditions along the way?

2 A Yeah, the weather conditions were white out, high
3 winds, blizzard conditions. We had to travel very
4 slow. It was almost about an hour to get there.

5 Q And when you arrived there, you were in Sergeant
6 Bukhenik's truck; is that correct?

7 A Correct.

8 Q And where did Sergeant Bukhenik position the truck
9 in relation to the house at 345 Country Hill?

10 A From what I recall, Sergeant Bukhenik went down
11 the cul-de-sac and turned around, and he actually had
12 to let me out first because of the high snowbanks and
13 then he parked kind of along the snow pointing
14 essentially to Mr. Read's house.

15 Q And at some point, did members of the Dighton
16 police come along and join?

17 A Yes.

18 Q And do you recall who those people were?

19 A I believe one of the officer's last name was
20 Barros or Barrios.

21 Q And had you ever met that officer before?

22 A No.

23 Q Now with respect to the home, had you and Sergeant
24 Bukhenik approached the home at any time prior to the
25 Dighton Police showing up?

1 A I can't recall if -- no, they had arrived first
2 before we approached the home.

3 Q And when you approached the home, you went -- how
4 did you -- what did you traverse? How did you get from
5 the street to the home?

6 A We walked down the driveway and then we observed
7 Ms. Read's Lexus parked in the driveway, the front of
8 it facing one of the garage doors, and that's when we
9 observed the broken taillight on the right side of the
10 vehicle. We then proceeded to the front door - the
11 snow was about up to our waist - and knocked on the
12 door and was greeted by Mr. Read.

13 Q As you're walking up the driveway towards the
14 home, you see Ms. Read's vehicle; is that correct?

15 A Yes.

16 Q And that's the vehicle that you later subsequently
17 found to be registered to Ms. Karen Read; is that
18 correct?

19 A Correct.

20 MR. LALLY: Your Honor, may I approach?

21 THE COURT: Yes.

22 Q Sir, I'm showing you a document. It's four pages
23 in length. I'd just ask you to review that and look up
24 when you're finished.

25 And do you recognize that document, sir?

1 A Yes.

2 Q And what do you recognize it to be?

3 A The Registry of Motor Vehicles, it's the certified
4 document for Ms. Read's Lexus.

5 Q And is that the plate information that's contained
6 in there, is that the same plate that was affixed to
7 Ms. Read's vehicle on that day?

8 A Yes.

9 Q And that also details sort of the history or how
10 long she's had possession of that vehicle; is that fair
11 to say?

12 A Correct.

13 Q Going back to I believe 2021; is that correct?

14 A Yes.

15 MR. LALLY: May I approach, Your Honor?

16 THE COURT: Yes.

17 MR. LALLY: Commonwealth is seeking to introduce
18 and admit as the next exhibit.

19 MR. JACKSON: No objection.

20 THE COURT: Thank you.

21 (Whereupon Exhibit No. 543, Registry of Motor Vehicle
22 Records Regarding Karen Read, was marked as an
23 exhibit.)

24 Q Now, with respect to Ms. Read, at some point you
25 go into the house; is that correct?

1 A Yes.

2 Q And how do you enter into the defendant's parents'
3 home?

4 A So Sergeant Bukhenik and I after we had knocked on
5 the front door, Mr. Read directed us around the corner,
6 opened up the garage door for us and invited us in.

7 Q Now, if I could take you back to -- I'm sorry --
8 just as far as when you're coming up the driveway and
9 you're passing by the defendant's vehicle, you
10 mentioned some damage that you observed to the right
11 rear passenger side area; is that correct?

12 A Yes.

13 Q Can you describe to the jury what it was
14 specifically that you observed as far as damage to that
15 area of the vehicle?

16 A Yeah. The right rear taillight had large pieces
17 missing from it.

18 Q So you proceed inside the home and where -- where
19 is it that you're directed and where is the defendant?

20 A We were invited into a large living room area.
21 Ms. Read is seated on a couch and her parents, William
22 and Janet, are present for the conversation and kind of
23 standing off to the side.

24 Q And that conversation goes on for approximately
25 how long?

1 A Approximately half hour, 40 minutes.

2 Q And when you terminate that conversation, you come
3 back outside of the home; is that correct?

4 A Yes.

5 Q And where is the vehicle at this point?

6 A That is being put on the tow truck.

7 Q Now, in addition to the defendant's vehicle what,
8 if anything else, was taken and seized as evidence from
9 the defendant on that morning?

10 A After confirming the phone Ms. Read was holding
11 was in fact hers, we told her we were seizing the phone
12 and we'd be writing a search warrant for that.

13 Q Now, during the course of the conversation that
14 you and Sergeant Bukhenik had with the defendant that
15 afternoon at her parents' home in Dighton, were there
16 some questions in relation to contact information for
17 other people that were at bars or different
18 establishments the night before?

19 A Yes. We asked Ms. Read specifically for some of
20 the friends that Mr. O'Keefe was with at C.F.
21 McCarthy's, one person in particular was Michael
22 Camerano. So we observed Ms. Read enter the passcode
23 on her phone, retrieve Mr. Camerano's phone number for
24 us, provide it to us, and that just further confirmed
25 that was her cell phone.

1 Q Now, through your training and experience, when a
2 cell phone is seized from a person what, if anything,
3 is it that you do with regard to that cell phone to
4 preserve the information on it?

5 A Well, first thing we do is we put it in airplane
6 mode and then we give it to a cell phone expert in our
7 office, Trooper Nicholas Guarino, and he essentially
8 tries to access the data in that phone once a search
9 warrant is obtained.

10 Q Now, as far as putting that cell phone in what you
11 described as airplane mode, was is the purpose of that?

12 A It's to avoid if someone wants to go on a tablet
13 or a laptop and access the information on their phone
14 and they can start deleting stuff up their iCloud.
15 This prevents that.

16 Q So you secured the phone, you secured the vehicle
17 on the tow truck, and then where did you and Sergeant
18 Bukhenik go from there?

19 A We followed the tow truck from the address in
20 Dighton to the Canton Police Department where it was
21 secured in the sally port bay.

22 Q And if you know, approximately what time was it
23 that you arrived at the Canton Police Department and
24 secured the defendant's vehicle in the sally port bay?

25 A So we left Dighton around 4:16 p.m. and arrived in

1 Canton at the police department at approximately 5:31
2 p.m.

3 Q And with reference to the Canton Police
4 Department's sally port garage, why was the vehicle
5 taken there?

6 A I wasn't part of that decision, but it was my
7 understanding that it was a heated facility. The other
8 options were, I believe, the barracks at in Milton, but
9 that's not large enough to house a vehicle that size
10 and it's not heated.

11 Q And in regards to the heated, what the sort of
12 purpose or utility of storing it in a heated setting?

13 A Ms. Read's vehicle was covered with snow and ice
14 at the time it was transported from Dighton to Canton.

15 Q And with regard to the sally port garage area of
16 the Canton Police Department, at some point were you
17 inside that area?

18 A Yes.

19 Q And what, if any, observations did you make as far
20 as the temperature or the heating within that facility?

21 A I don't remember the exact -- like, I couldn't put
22 a ballpark on temperature, but it was certainly warmer
23 than outside.

24 Q Now as far as the vehicle was concerned either on
25 scene -- either in Dighton or at the sally port garage

1 or at any point in time that you were in the presence
2 of that vehicle, what, if any, contact did you have,
3 what, if anything, did you do or observe Sergeant
4 Bukhenik to do with regard to that damaged area you
5 described on the right rear passenger side?

6 A Sergeant Bukhenik and I never touched any part of
7 that vehicle.

8 Q And as far as the moving it from sort of the tow
9 truck into the sally port area, how was that
10 accomplished?

11 A The tow truck driver removed it from the tow truck
12 and pulled it into the sally port bay.

13 Q Now as far as prior to leaving that sally port
14 area of the garage where the vehicle was, what, if
15 anything, did you and Sergeant Bukhenik do with
16 reference to securing that vehicle or cordoning it off
17 in any way, shape, or form?

18 A We try to set up a perimeter as best we could
19 using caution tape and just kind of sectioned off with
20 caution tape.

21 Q Now at some point, you leave the sally port of the
22 Canton police station, and where did you go from there?

23 A We had a debrief meeting. So there's other
24 troopers. There's troopers at scene on 34 Fairview
25 Road. There's other troopers conducting interviews.

1 So at the end of the night, members of my office met in
2 a conference room at the Canton Police Department to
3 exchange information as far as what everyone had
4 learned throughout the day.

5 Q And as far as that meeting is concerned, that's
6 just troopers from your unit from your office; is that
7 correct?

8 A That's correct.

9 Q And so there were no members of the Canton Police
10 Department that were present for that; is that correct?

11 A No. Correct.

12 Q And do you know why that was?

13 A They had taken a step back from the investigation.
14 They weren't going to participate in any interviews or
15 anything of that nature.

16 Q And how is that communicated to you and Sergeant
17 Bukhenik?

18 A To the best of my recollection was that debrief
19 meeting that we were informed that essentially Canton
20 PD would be taking a step back from the investigation
21 and that now this is solely a Norfolk -- a state police
22 investigation.

23 Q So before we get to sort of the debriefing and all
24 that's covered in that, as far as when you're on call
25 and you get a call for any kind of sort of homicide or

1 undetected -- unattended death or anything like that,
2 you then become what's called a case officer for that
3 investigation; is that correct?

4 A Correct.

5 Q And can you describe for the jury sort of what the
6 duty or the role is of the case officer vis-a-vis the
7 rest of the members of the unit?

8 A So essentially a case officer is more of a
9 facilitator. You kind of delegate out tasks,
10 coordinate interviews. The case officer isn't the sole
11 decision-maker. I have supervisors. I have that we
12 bounce ideas off of, I get feedback from. I also keep
13 them updated. It's a collaborative effort in each
14 investigation, we're a small office so when a homicide
15 comes in everyone essentially drops what they're doing,
16 and we all work on it together. So it's a collective
17 effort to work on these cases and essentially a case
18 officer is just kind of the recordkeeper of all the
19 reports that come in and video that comes in, but when
20 it comes down to decision-making time, it's a group
21 effort.

22 Q Now, with reference to that collaborative effort
23 that you were just discussing and this sort of
24 debriefing meeting, so there were other troopers doing
25 other things or other tasks throughout the course of

1 the day of the 29th, correct?

2 A Yes.

3 Q And so what was sort of the purpose of or - not
4 specifically what was discussed - but in general terms,
5 what was discussed during the course of this debriefing
6 meeting?

7 A The taillight pieces found at 34 Fairview Road by
8 SERT, the one sneaker found at 34 Fairview Road,
9 interviews conducted, and then Sergeant Bukhenik and I
10 also shared everything we had kind of learned
11 throughout the day as well.

12 Q And that debriefing meeting, if you know, about
13 how long approximately did that take in this case?

14 A I can't recall. Maybe a half hour, an hour.

15 Q And so following that meeting, where did you go
16 from there?

17 A Sergeant Bukhenik and I had secured some evidence.
18 The clothing from Good Samaritan Hospital, the
19 additional sneaker found at 34 Fairview Road as well as
20 the taillight pieces discovered at 34 Fairview Road,
21 and Mr. O'Keefe's cell phone and Ms. Read's cell phone,
22 and him and I transported those to the office in
23 Canton.

24 Q And when you transported them to the office in
25 Canton, what, if anything, did you do with those items?

1 A The two cell phones were given to Trooper Nicholas
2 Guarino and the clothing was laid out on top of butcher
3 paper to dry out in our evidence intake area, and then
4 the bag taillight pieces were set aside in the evidence
5 intake processing area. Sergeant Bukhenik and I didn't
6 have access to the permanent evidence locker area, so
7 we just secured them in the temporary intake area.

8 Q And that leads to my next question. As far as the
9 area that you're talking about with regard to the
10 clothing items and the other items that you secured
11 beyond the cell phones, that was in a secure area of
12 your office; is that correct?

13 A Correct.

14 Q And by secure, I mean restricted access to the
15 troopers within your unit, correct?

16 A Correct. You need a key card, and it's also
17 equipped with an alarm.

18 Q Now, following that as far as these items of
19 evidence and other items of evidence that were seized
20 throughout the course of an investigation, how is it
21 that they go or what, if anything, is done, if you
22 know, between the time that they go from this temporary
23 storage area to the permanent storage area?

24 A Yeah, I'm not an evidence officer. I never had
25 been. My understanding is once it's in the evidence

1 processing area, it gets put into the permanent
2 evidence room that only, like I said, three -- two
3 troopers and the detective lieutenant have access to,
4 and it's the evidence officer's responsibility to
5 process that material when they see fit.

6 Q Now, sir, if I could turn your attention to
7 February 1, 2022. Were you working in regard to this
8 investigation on that day as well?

9 A Yes.

10 Q And at some point did you have occasion to go back
11 to the Canton Police Department, specifically in the
12 sally port garage area?

13 A I did.

14 Q And what was the purpose of you going out to the
15 sally port garage on that?

16 A Pursuant to a search warrant, we were processing
17 Ms. Read's Lexus SUV.

18 Q And when you say "we", who if anyone else was
19 present with you or who if anyone else did you contact
20 in reference to the processing pursuant to that search
21 warrant of the defendant's vehicle?

22 A So we had a chemist from the state police lab, Ms.
23 Maureen Hartnett, as well as a trooper from crime scene
24 services, Trooper Zachary Clark, and then later in the
25 day, the accident recon team, Trooper Joe Paul had

1 arrived as well.

2 Q Now, if I could just ask you a couple of questions
3 in regard to crime scene services section.

4 Can you describe for the jury sort of what their
5 role is in regard to investigations that you do and how
6 they're sort of contacted?

7 A So in any scene, if it's required for it to be
8 documented, crime scene services will arrive. They'll
9 document the scene with the photographs. In more
10 serious situations, in a homicide, for instance,
11 they'll actually take video as well as dust for
12 fingerprints.

13 Q Now, with respect to this particular
14 investigation, there were a number of different areas
15 or different times when crime scene services was
16 contacted to document things, correct?

17 A Yes.

18 Q And that would include at Good Samaritan when you
19 observed injuries to Mr. O'Keefe?

20 A Correct.

21 Q That would include the autopsy that was performed
22 on Mr. O'Keefe?

23 A Yes.

24 Q That would include February 1, in the sally port
25 garage when the search warrant was executed on the

1 defendant's vehicle?

2 A Correct.

3 Q That would include subsequent searches that
4 occurred at Fairview Road; is that correct?

5 A Yes.

6 Q And with respect to each of those instances, if
7 you know, was it ever the same trooper from crime scene
8 services section that came out and memorialized each of
9 those respective areas?

10 A There was a different trooper each time.

11 Q And is that something that you or any member of
12 your unit has any control over whatsoever as far as who
13 shows up from crime scene services to memorialize or
14 document a scene?

15 A No.

16 Q Now, with respect to the search warrant execution
17 on February 1, what I want to ask is between the time
18 that you were in the garage on January 29, 2022, and
19 the time that you're there for the search warrant
20 execution on February 1, had you been in that sally
21 port area of the Canton police station at any time in
22 between?

23 A No.

24 Q Now, with respect to the taillight area on the
25 passenger side of the defendant's vehicle, what, if

1 any, difference, or what, if any -- what, if anything,
2 do you note sort of between your observations of the
3 taillight on the 29th versus your observations on
4 February 1?

5 A The only difference from 29th to the 1st was snow
6 and ice had melted from the taillight.

7 Q So as far as the condition of that particular
8 taillight, was it in essentially the same condition
9 that you observed it on the 29th and when you observed
10 it on the 1st?

11 A Yes, it was still broken and large pieces missing
12 from it.

13 Q But as far as the broken status of it and the
14 pieces that were missing, were there any -- was there
15 anymore broken or anymore pieces missing from it from
16 when you saw it on the 1st versus when you saw it on
17 the 29th?

18 A No.

19 Q And with respect to the taillight housing for that
20 vehicle on that particular day, what, if anything,
21 happened with it on that day, if you know?

22 A The state police chemist, Ms. Hartnett, had it
23 removed, which she brought to the lab herself.

24 Q So she had it removed, removed it herself, and
25 then physically took it with her when she left to the

1 lab?

2 A Yeah, it was with the assistance of a Canton
3 police officer who was -- had an auto body shop so he
4 is kind of well-versed in cars so he was able to assist
5 the chemist with removing the housing unit.

6 Q Now, at any point in time on that day on February
7 1, 2022, did you come into contact physically or
8 otherwise with that taillight, did you handle it in any
9 way, shape, or form?

10 A No.

11 MR. LALLY: And, Your Honor, if I may with the
12 Court's permission, I would request to publish -- give
13 me one moment, Your Honor.

14 If I may have one moment, Your Honor?

15 THE COURT: Yes.

16 MR. LALLY: My apologies, Your Honor. With the
17 Court's permission if I could publish a portion of
18 Exhibit 34?

19 THE COURT: Okay.

20 MR. LALLY: The sally port video. Ms. Gilman, if
21 I could have from February 1, 2022, at approximately --
22 excuse me -- approximately 9:12 a.m.

23 If you could just pause it right there. Thank
24 you.

25 Your Honor, if I may, it may be easier or more

1 visible with this particular video with the lights on.

2 THE COURT: Okay.

3 MR. LALLY: We can try it out.

4 THE COURT: Sure.

5 Q Trooper Proctor, directing your attention to
6 what's up on the screen as Exhibit 34. Do you
7 recognize what's depicted on the screen?

8 A Yes, that's the sally port area of the Canton
9 Police Department and Ms. Read's Lexus kind of roped
10 off with yellow caution tape.

11 Q And this is the execution of that search warrant
12 that you were speaking about before as far as your
13 presence and some of the other members of the state
14 police and the state police lab which you were talking
15 about?

16 A Correct.

17 MR. LALLY: And, Ms. Gilman, if you could run from
18 here.

19 Q And, sir, while this is going, if I could just ask
20 a couple of questions. As far as people within this
21 video, do you recognize anyone in this video?

22 A Yeah, myself kind of top of the screen, Trooper
23 Zach Clark would be the one with the camera taking
24 photographs of the vehicle.

25 Q Now with reference to this video from the sally

1 port garage of Canton Police Department, what, if
2 anything, did you learn over course of this in regard
3 to how that video is recorded or how it's -- what, if
4 anything, sort of activates that video?

5 MR. JACKSON: Objection.

6 THE COURT: Ask it differently, Mr. Lally.

7 Q As far as this video is concerned, it this one
8 continuous time frame that we're looking at or how is
9 it --

10 MR. JACKSON: Objection.

11 THE COURT: Sustained.

12 A My understanding it's motion activated --

13 THE COURT: That means you can't answer it.

14 THE WITNESS: Oh, I'm sorry. Sorry. You can --

15 MR. JACKSON: Move to strike.

16 MR. LALLY: I'm not sure there was anything said.

17 A No.

18 THE COURT: I'll strike if there was anything.

19 But, Mr. Lally, just ask a question, please.

20 Q With respect to this video, as far as the
21 recording is set up, how is that activated or how does
22 it record?

23 MR. JACKSON: Objection. Same question.

24 THE COURT: Yeah. How does he know that? It's
25 sustained.

1 Q Have you watched this video or other videos from
2 the Canton Police Department sally port garage?

3 A Yes.

4 Q What, if anything, did you note with regard to
5 timing as far as -- is there a timestamp on the video;
6 is that correct?

7 A Yes.

8 Q And what, if anything, did you note with regard to
9 the timestamp on this video or the other videos that
10 you observed with regard to how time moved throughout
11 the video?

12 A The timestamp on the video tends to pause
13 indicating it's motion activated.

14 MR. JACKSON: Objection.

15 THE COURT: It tends to pause I'll strike after.

16 MR. LALLY: Ms. Gilman, if you could play until
17 about 9:24.

18 Ms. Gilman, you can take that down. Thank you
19 very much.

20 Q Now, Trooper, with regard to that taillight that
21 was then taken by Ms. Hartnett to the lab; is that
22 correct?

23 A Yes.

24 Q And at some point, that was returned to the
25 custody of the state police, your detective unit?

1 A Correct.

2 Q And do you have that taillight housing with you
3 today in court?

4 A I do.

5 MR. LALLY: And, Your Honor, with the Court's
6 permission if the trooper could retrieve that.

7 THE COURT: Okay.

8 MR. LALLY: May I approach, Your Honor?

9 THE COURT: Yes.

10 MR. LALLY: It probably will be easier that way.
11 Sir, you can stay right there.

12 Q Handing you an item, sir. Do you recognize that?

13 A Yes.

14 Q And what do you recognize that to be?

15 A That's the -- I recognize that to be the housing
16 unit.

17 Q And as far as your recognizing of the housing
18 unit, is there any sort of denotation or anything on
19 the outside of that box indicating what's contained
20 therein?

21 A There's a state police crime lab sticker with a
22 number associated with it. It also indicates fragile
23 and evidence tape that is initialed and dated as well
24 when it's sealed up.

25 MR. LALLY: Your Honor --

1 A And it's the sticker also says passenger side TA
2 indicating taillight.

3 Q Thank you, sir.

4 MR. LALLY: Your Honor, with the Court's
5 permission, I would ask or seek to admit and introduce
6 that as the next exhibit.

7 THE COURT: Do you want it out of the box first,
8 Mr. Jackson?

9 MR. JACKSON: If we could just take a quick look
10 at it.

11 THE COURT: Sure.

12 MR. LALLY: With the Court's permission, if the
13 witness may remove from the box.

14 THE COURT: Yes.

15 A (Witness complies.) (The witness displayed the
16 exhibit.)

17 Q Thank you, sir. Trooper, you can go ahead and put
18 that back in the box. Thank you very much.

19 A (Witness complies.)

20 THE COURT: We need to mark that, and we're going
21 to mark it twice, folks. We're going to mark the bag
22 within the box and we'll mark the box as well.

23 MR. LALLY: I'm sorry, Trooper, if you could hand
24 that to --

25 THE COURT REPORTER: Hold on.

1 THE COURT: Hold on. So it's going to be 544 and
2 544A.

3 THE COURT REPORTER: Yes.

4 MR. JACKSON: Your Honor, may I inquire, is the A
5 is the light and 544 is the bag?

6 THE COURT: We're not even putting it right on the
7 light because it's broken.

8 MR. JACKSON: Understood.

9 THE COURT: So we're putting 544 on the bag, 544A
10 on the box.

11 MR. JACKSON: Understood. Thank you.

12 THE COURT REPORTER: Trooper, can you put that on
13 the bag, please.

14 (Whereupon Exhibit No. 544, Evidence Bag with Taillight
15 Housing, was marked as an exhibit.)

16 (Whereupon Exhibit No. 544A, Evidence Box with Evidence
17 Bag with Taillight Housing, was marked as an exhibit.)

18 Q Trooper, with respect to that item that's just
19 been marked as evidence, is that essentially the
20 condition that you observed it in both on January 29,
21 and February 1?

22 A Yes. Yes.

23 MR. LALLY: Your Honor, with the Court's
24 permission, if I could ask just to publish what's been
25 marked as Exhibit 147?

1 THE COURT: Okay.

2 Q Trooper Proctor, do you recognize what's up on the
3 screen that's been marked as Exhibit 147?

4 A Yes.

5 Q What do you recognize that to be?

6 A That is the right taillight of Ms. Read's Lexus
7 SUV, and you can see large pieces of it are missing.

8 Q Again, is that in the same condition that you
9 observed it both on February 1 as well as January 29,
10 obviously minus the snow and the ice?

11 A Yeah. Minus the snow and ice, sir, yes, sir.

12 Q Thank you, sir.

13 MR. LALLY: Ms. Gilman, you can take that down.
14 Mr. Officer, if we can have the lights back up. Thank
15 you.

16 Q Now, if I could turn your attention to February
17 3rd of 2022. In the morning hours of that date, where
18 did you go in regard to this investigation?

19 A Sergeant Bukhenik, Trooper David DiCicco and
20 myself went to 34 Fairview Road along with Trooper Evan
21 Brandt from crime scene services to essentially dig out
22 the snow in pursuit for more evidence.

23 Q Now as far as you mentioned as far as dig out the
24 snow in pursuit of other evidence, what, if any, tools
25 or implements did you and the other troopers bring with

1 you in order to effectuate that on February 1?

2 A We just had kind of standard snow shovels.

3 Q And with respect to that as far as going back to
4 34 Fairview Road, and let me clarify as far as that's
5 concerned.

6 Prior to that date of February 3, 2022, had you
7 been to 34 Fairview Road at any point in time in the
8 course of your investigation?

9 A No.

10 Q So that morning of February 3, that's the first
11 time that you went?

12 A Correct.

13 Q Now with respect to -- is that -- how many times
14 did you go to the area of 34 Fairview Road over the
15 course of the next sort of days and weeks in regard to
16 potential recovery of items?

17 A So February 3, I retrieved items on the 8th, the
18 11th, and 18th, and was out there on the 10th with
19 Sergeant Bukhenik as well.

20 Q Now, as far as any of those occasions that you
21 just described that you went to the area of 34 Fairview
22 Road, on any of those occasions were you by yourself?

23 A No.

24 Q And with respect to those other occasions, what
25 type of people or who was with you? I know you

1 mentioned on the 3rd. But beyond the 3rd, those other
2 occasions that you described, who was with you?

3 A On the 18th, I believe it was Trooper DiCicco
4 based on the handwriting on the evidence bag. I kind
5 of recognized his handwriting. And the other two
6 dates, I don't recall who was out there with me.

7 Q Now, with respect to items that were located
8 starting with the 3rd, do you recall specifically what,
9 if any, items were located on the 3rd?

10 A We located a black drinking straw consistent with
11 the one seen in the Waterfall video of Mr. O'Keefe
12 walking out of the bar holding the glass. We located
13 his hat that had the American flag that was deep
14 underneath the snow. As we were digging, we discovered
15 that. We further discovered other pieces of plastic as
16 well.

17 Q Now as far as these return trips on successive
18 dates to 34 Fairview Road, what was the reasoning
19 behind that or what was sort of the plan in reference
20 to why were there so many different dates that you
21 returned to 34 Fairview Road with other troopers?

22 A So after the 29th, there was close to, what, 2
23 feet of snow that had fallen, and the days and weeks
24 that had followed, the temperatures ranged from 30
25 degrees up to 60 degrees, and there was about half a

1 dozen days mixed in of, you know, heavy rain. So as
2 the snow started to melt, more evidence started to
3 present itself.

4 Q So there were items that you recovered on the 3rd
5 and then items you recovered on successive dates that
6 weren't visible or you didn't see on the 3rd, correct?

7 A Correct.

8 Q Now, if I could keeping you on February 3. You
9 mentioned that that were a Trooper Evan Brandt that was
10 present with you during the search on that day as well?

11 A Yes.

12 Q Now, in addition to going to 34 Fairview Road,
13 where else did yourself and Trooper Brandt go on that
14 particular day?

15 A We traveled to 1 Meadows Ave., Mr. O'Keefe's
16 residence.

17 Q And is that the first time that you had been to 1
18 Meadows Ave. or Mr. O'Keefe's residence.

19 A Yes.

20 Q Now with respect to that residence, why is it that
21 you and Trooper Brandt went there on February 3?

22 A We wanted to document Mr. O'Keefe's vehicle to
23 ensure that there was no damage to it as well as the
24 garage doors.

25 Q And why did you want to document that?

1 A During the review of Mr. O'Keefe's Ring video,
2 particularly the one above the garage that displays the
3 driveway, on the 29th at approximately 5:07 a.m., Ms.
4 Read is pulling her vehicle out of the garage door
5 backing up towards Mr. O'Keefe's vehicle and comes
6 extremely close, if not slightly hitting the vehicle.
7 So we wanted to at least go document that there was no
8 damage to Mr. O'Keefe's car.

9 MR. LALLY: And, Your Honor, with the Court's
10 permission if I could publish that for the jury as far
11 as what's been marked Exhibit 6, video 153.

12 THE COURT: Okay.

13 (Video played.)

14 MR. LALLY: And, Ms. Gilman, if I could have you
15 pause.

16 Q Trooper Proctor, with regard to this Ring video,
17 how is this obtained, if you know?

18 A So we first observed it through Mr. O'Keefe's cell
19 phone on the Ring app, and then I wrote a search
20 warrant for Ring itself.

21 Q And as far as the video that you received from
22 Ring, did they match what was on the -- or what was
23 viewable being the Ring app on Mr. O'Keefe's cell
24 phone?

25 A The videos on Mr. O'Keefe's app, yes, when

1 produced matched.

2 Q So as far as any videos that were present that you
3 received pursuant to the search warrant or any videos
4 that were not present, that was consistent with what
5 you observed on Mr. O'Keefe's app on his phone?

6 A Yes.

7 MR. LALLY: Now, Ms. Gilman, if you could, press
8 play from here.

9 (Video played.)

10 Q Now, Trooper Proctor, with regard to this video,
11 you've seen this before; is that correct?

12 A Yes.

13 Q Now the point from this video, are you able to
14 discern who the operator of that vehicle is?

15 A Based off the attire, Ms. Read driving.

16 Q Now, with respect to when that vehicle, the
17 defendant's vehicle, if you could there's a laser
18 pointer up there in front of you on the desk. If you
19 could, I would ask you to draw the jurors' attention to
20 what, if any, vehicles you observed in this video and
21 whose vehicle.

22 A So right there it's Mr. O'Keefe's vehicle and Ms.
23 Read's vehicle.

24 Q Now as far as when those vehicles come close or
25 come into contact with each other, as far as Mr.

1 O'Keefe's vehicle is concerned, what, if anything, did
2 you observe, like, on Mr. O'Keefe's vehicle at the
3 time?

4 A There is some snow I see on the back window here,
5 the bumper and the windows here is starting to be
6 covered in snow.

7 Q And as far as when that vehicle comes close to it
8 or makes contact with Mr. O'Keefe's vehicle, what, if
9 anything, you observe the snow come off of the car at
10 that point?

11 A I do not, no.

12 Q Now, with reference to the back area of Mr.
13 O'Keefe's vehicle, specifically an area of the ground,
14 as far as that area on the ground, what, if anything,
15 did you observe in reference to the red pieces or any
16 pieces of taillight or plastic or glass or anything in
17 that area that you observed on this video?

18 A So this area here is you can see the white snow.
19 There's no red pieces of taillight which would show up
20 in the contrast of white snow.

21 MR. LALLY: Ms. Gilman, if you could run it from
22 there for a moment.

23 Q Now, as far as the damaged area that you were
24 discussing previous that you observed in the January
25 29, from the sally port, February 1, from the sally

1 port, and then the item that was just marked as
2 evidence, what, if anything, did you observe on the
3 right rear passenger side taillight area of the
4 defendant's vehicle from this video?

5 A You can see the inconsistent lighting. If you
6 compare it to the left versus the right, there's a gap
7 right there.

8 Q And from what you observed in that video, does
9 that appear to be consistent with what you observed on
10 January 29, at the Canton Police Department, February
11 1, and the item of evidence that was just marked?

12 A Yes.

13 MR. LALLY: Thank you. Ms. Gilman, you can take
14 that down. Mr. Officer, we can have the lights back
15 on. Thank you.

16 Q Now, sir, you proceeded to 1 Meadows Ave. for the
17 first time on February 3; is that correct?

18 A Correct.

19 Q And Trooper Brandt from crime scene was with you
20 and took some photographs; is that correct?

21 A Yes.

22 MR. LALLY: Your Honor, may I approach?

23 THE COURT: Yes.

24 Q And, Trooper, I'm showing you a set of ten
25 photographs. Actually, if you review those and look up

1 when you're finished.

2 And, Trooper, just generally speaking, do you
3 recognize what's depicted in those photographs?

4 A Yes.

5 Q And what do you recognize them to be?

6 A The front is the -- the first picture is the front
7 door of Mr. O'Keefe's house, and it's also Mr.
8 O'Keefe's Chevy Traverse.

9 MR. LALLY: May I approach, Your Honor?

10 THE COURT: Yes.

11 MR. LALLY: Commonwealth would seek to introduce
12 and admit as the next ten exhibits.

13 MR. JACKSON: No objection.

14 THE COURT: Okay.

15 (Whereupon Exhibit No. 545, Photograph of O'Keefe's
16 Front Door at 1 Meadows, was marked as an exhibit.)

17 (Whereupon Exhibit No. 546, Photograph of O'Keefe's
18 Chevy Traverse, was marked as an exhibit.)

19 (Whereupon Exhibit No. 547, Photograph of Rear License
20 Plate of O'Keefe's Chevy Traverse, was marked as an
21 exhibit.)

22 (Whereupon Exhibit No. 548, Photograph of Ring Camera
23 on O'Keefe's Garage, was marked as an exhibit.)

24 (Whereupon Exhibit No. 549, Photograph Rear/Driver's
25 Side of O'Keefe's Chevy Traverse, was marked as an

1 exhibit.)

2 (Whereupon Exhibit No. 550, Photograph of Rear of
3 O'Keefe's Chevy Traverse, was marked as an exhibit.)

4 (Whereupon Exhibit No. 551, Rear/Passenger's Side of
5 O'Keefe's Chevy Traverse, Photograph of O'Keefe's Front
6 Door at 1 Meadows, was marked as an exhibit.)

7 (Whereupon Exhibit No. 552, Photograph of
8 Rear/Passenger's Side of O'Keefe's Chevy Traverse, was
9 marked as an exhibit.)

10 (Whereupon Exhibit No. 553, Photograph Close-up of Rear
11 Passenger Side of O'Keefe's Chevy Traverse, was marked
12 as an exhibit.)

13 (Whereupon Exhibit No. 554, Photograph of Close-up of
14 Rear Passenger Side of O'Keefe's Chevy Traverse, was
15 marked as an exhibit.)

16 MR. LALLY: And, Your Honor, with the Court's
17 permission if I could just have permission to publish
18 just a few of those photos for the jury.

19 THE COURT: Okay.

20 MR. LALLY: Ms. Gilman, if I could have
21 photographs 7752.

22 Q And, Trooper Proctor, do you recognize what's up
23 on the screen has now been marked as Exhibit 546?

24 A Yes. Mr. O'Keefe's Chevy Traverse vehicle.

25 Q And with respect to this particular foreground

1 here, if you could you describe for the jury what we're
2 looking at there.

3 A So that is Mr. O'Keefe's driveway. You see two
4 garage doors there that lead into the house, and above
5 those garage doors is the Ring camera.

6 Q Now, with respect to the rear of Mr. O'Keefe's
7 vehicle from your viewing of the video from Exhibit 6
8 from the Ring video, video number 153, if you could
9 using that laser pointer direct the jury's attention to
10 where it is on this vehicle that's there's contact, if
11 any, with Ms. Read's vehicle and Mr. O'Keefe's vehicle?

12 A It would have been in this general area here
13 (indicating).

14 Q And as far as your observation --

15 MR. JACKSON: Objection, Your Honor.

16 Q -- on that date February 3 --

17 THE COURT: Hold on. Hold on.

18 MR. JACKSON: May we approach, briefly?

19 THE COURT: Okay.

20 (Sidebar commences:

21 MR. JACKSON: Your Honor, it appears that the
22 witness has just indicated where he believes there was
23 impact made between the Traverse and the Lexus SUV.
24 That is completely outside the bounds of his expertise.
25 He doesn't have any more knowledge of where that car

1 impacted anything other than the 17 people who are more
2 instructive than the 17 people looking at the exact
3 same video. It's completely uncalled for.

4 THE COURT: There's been an awful lot of this on
5 both sides during this trial. You're objecting that
6 the video speaks for itself?

7 MR. JACKSON: A hundred percent.

8 THE COURT: Well, I --

9 MR. JACKSON: I just don't think that is
10 appropriate.

11 THE COURT: What do you want to say?

12 MR. LALLY: Again, I can ask it a different way as
13 far as just asking him to direct to a certain area of
14 the vehicle, if that's what counsel prefers, but he's
15 just directing to a certain area on the vehicle.

16 MR. JACKSON: He has manipulated, completely
17 motivated --

18 THE COURT: Okay. Hold on. The objection is
19 sustained. You can direct his attention to the --
20 where you want to direct his attention.

21 MR. LALLY: Sure.

22 MR. JACKSON: I'd ask to strike the last answer.

23 THE COURT: I don't know what he said. The
24 question was being asked. He hasn't answered it yet.

25 MR. JACKSON: No, no. So the question before

1 where he started playing with the laser pointer saying,
2 "This over here," is down below, the lower part of the
3 bumper --

4 THE COURT: Okay.

5 MR. JACKSON: -- and that's why I objected.

6 THE COURT: You -- there's the -- no, I'm not
7 going to strike anything. The question is prohibited,
8 and we'll move on.

9 MR. JACKSON: Just for clarification --

10 THE COURT: You didn't object when Mr. Lally asked
11 the question.

12 MR. JACKSON: I didn't because he said, "Could you
13 see that area was --

14 THE COURT: What was your question?

15 MR. JACKSON: -- there was contact," or something
16 like that.

17 THE COURT: What was your question?

18 MR. LALLY: I believe the first question was if
19 you could use the laser pointer to direct the jury's
20 attention to the area that you believe that vehicle and
21 the defendant's vehicle came into contact with this
22 vehicle. And he did that. And then my next question,
23 which I was in the middle of asking and was objected to
24 was, as far as what, if any, damage he observed in the
25 driveway that day to that area of the vehicle.

1 THE COURT: And that's when the objection.

2 MR. LALLY: Correct.

3 THE COURT: You want me to strike a chalk?

4 MR. JACKSON: Correct. What he was pointing to,
5 It's inappropriate for him to determine for the jury
6 when he believes the cars came in contact with one
7 another. Once I looked up and saw that he was pointing
8 to the left lower bumper area, I objected. And then
9 Mr. Lally began his question, and we talked over each
10 other. My point is that should not be within the
11 purview of this witness to direct the jurors where he
12 believes the cars came in contact because the video in
13 this instance absolutely speak for itself. Everybody
14 can make up their own mind.

15 THE COURT: Okay. I'm not going to strike it, but
16 don't ask it further. That's it. That's my ruling.

17 MR. JACKSON: Thank you.

18 end of sidebar.)

19 Q Trooper, when you were in the driveway of Mr.
20 O'Keefe's residence on February 3, 2022, you had
21 occasion to make observations of Mr. O'Keefe's vehicle;
22 is that correct?

23 A Correct.

24 Q And what, if any, damage did you observe to the
25 driver's side rear area of the vehicle?

1 A I didn't observe any significant damage or any
2 damage.

3 Q As far as the entirety of the vehicle, that was
4 all photographed on that day by Trooper Brandt; is that
5 correct?

6 A Yes.

7 Q And memorialized in those photographs that were
8 just presented to you; is that correct?

9 A Correct.

10 Q And as far as your observations on that day or in
11 those photographs, what, if any, damage did you observe
12 to Mr. O'Keefe's vehicle?

13 A I did not observe any damage.

14 MR. LALLY: May I approach, Your Honor?

15 THE COURT: Yes.

16 Q Sir, there's another eight photographs that I've
17 placed before you. Have you had a chance to review
18 those?

19 A Yes, sir.

20 Q And do you recognize what's depicted in those
21 eight photographs?

22 A Yes.

23 Q And what do you recognize those to be?

24 A More photographs of Mr. O'Keefe's vehicle as well
25 as the garage doors.

1 MR. LALLY: Your Honor, may I approach?

2 THE COURT: Yes.

3 MR. LALLY: Commonwealth would seek to introduce
4 as the next eight exhibits.

5 MR. JACKSON: No objection.

6 THE COURT REPORTER: Exhibits 555 through 562,
7 Your Honor.

8 (Whereupon Exhibit No. 555, Photograph of Passenger
9 Side Doors of O'Keefe's Chevy Traverse, was marked as
10 an exhibit.)

11 (Whereupon Exhibit No. 556, Photograph of Front
12 Passenger Side of O'Keefe's Chevy Traverse, was marked
13 as an exhibit.)

14 (Whereupon Exhibit No. 557, Photograph of Front Driver
15 Side of O'Keefe's Chevy Traverse, was marked as an
16 exhibit.)

17 (Whereupon Exhibit No. 558, Photograph of Driver's Side
18 of O'Keefe's Chevy Traverse, was marked as an exhibit.)

19 (Whereupon Exhibit No. 559, Photograph Closeup of
20 Driver's Side Rear Bumper of O'Keefe's Chevy Traverse,
21 was marked as an exhibit.)

22 (Whereupon Exhibit No. 560, Photograph of Two Garage
23 Doors of O'Keefe's House, was marked as an exhibit.)

24 (Whereupon Exhibit No. 561, Photograph of Two Garage
25 Doors of O'Keefe's House, was marked as an exhibit.)

1 (Whereupon Exhibit No. 562, Closeup of Garage Door of
2 O'Keefe's House, was marked as an exhibit.)

3 THE COURT: Thank you.

4 MR. LALLY: Your Honor, with the Court's
5 permission if I could publish this to you as well as to
6 the jury as well.

7 THE COURT: Okay.

8 MR. LALLY: Ms. Gilman, if I could have
9 photographs 7779.

10 Q And, Trooper, do you recognize what's depicted on
11 the screen now as Exhibit 559?

12 A Yes.

13 Q And if you could describe for the jury what we're
14 looking at in 559?

15 A It's the rear bumper area of Mr. O'Keefe's
16 vehicle.

17 Q Is that the driver side or the passenger side of
18 the vehicle?

19 A The driver's side.

20 Q And what, if any, damage did you observe in that
21 area of the vehicle on February 3, when you were there?

22 A No damage.

23 Q Now with respect --

24 MR. LALLY: Ms. Gilman, if I could have photograph
25 7780.

1 Q And, sir, do you recognize what's up on the screen
2 and what's now been marked as Exhibit 560?

3 A Yes, those are the two garage doors of Mr.
4 O'Keefe's house.

5 Q And what's contained up on that screen, is that a
6 fair and accurate portrayal what you observed in Mr.
7 O'Keefe's garage door for February 3?

8 A Yes.

9 Q And with respect to those garage doors, what, if
10 any, damage did you note or observe on those garage
11 doors at any point when you were there on February 3?

12 A I did not observe any damage to the garage doors.

13 MR. LALLY: Ms. Gilman, you can take that down.

14 Q Now, Trooper Proctor, subsequent dates following
15 February 3, specifically February 8, 11th, and 18th,
16 did you have occasion to return to 34 Fairview Road on
17 those days?

18 A I did.

19 Q And you had mentioned a little bit about sort of
20 changes in the weather. What, if anything, sort of
21 evolved as far as the weather was concerned between the
22 dates of February 3, when you were there, and February
23 8, 11, and 18th?

24 A Yeah, as I mentioned the weather pattern had kind
25 of fluctuated from, you know, 30 degrees up to 60

1 degrees with a handful of days of heavy rain mixed in,
2 so that caused a lot of snow to melt as well.

3 Q And with respect to each of those respective days
4 of February 8, 11th, and 18th, what, if anything, did
5 you observe or recover you and the other troopers that
6 were present on those dates?

7 A Yeah, it was further evidence that was originally
8 buried under the snow because of the warm temperature
9 and the rain and the snow melting kind of revealed
10 itself more pieces of plastic clear and red.

11 Q Now, with respect to the residence at 34 Fairview
12 Road, each of these times that you were at the
13 residence, including February 3, where in relation to
14 the house were these items observed and recovered by
15 you and the other troopers on those respective dates?

16 A So if you're looking at 34 Fairview looking at the
17 front of the house, it's to the left side of the
18 property between like the flagpole and kind of the fire
19 hydrant in that general area, the front and left of the
20 property.

21 Q Now, with regard to these three subsequent dates
22 as far as February 8, 11, and 18th, these items that
23 were observed and recovered on those dates, where were
24 they in relation to the roadway? Where were they in
25 relation to the hydrant and the flagpole, and other

1 sort of markers in the area?

2 A I don't generally -- I don't specifically remember
3 exactly if they were around the flagpole because the
4 SERT team had came and shoveled an area around, so that
5 stuff had melted first because there was a lot less
6 snow, and then they created more piles. But as far as
7 the general area, it was by the flagpole and fire
8 hydrant. It wasn't like on the other side of the
9 property. It was in that general area.

10 Q And just with respect to those items, were they
11 generally found or what do they -- were they
12 specifically found either on the grass or the roadway
13 area?

14 A Grass area.

15 Q Asphalt or grass is basically what I'm asking.

16 A I'm sorry. Grass area.

17 Q And with regard to each of those items that were
18 recovered on those three successive dates as far as
19 February 8, 11, and 18th, did you bring those items
20 with you to court today as well?

21 A I did.

22 MR. LALLY: May I approach, Your Honor?

23 THE COURT: Yes.

24 Q Do you recognize that bag, sir?

25 A I do.

1 Q What do you recognize that to be?

2 A It's an evidence bag containing three smaller
3 evidence bags.

4 MR. LALLY: And with the Court's permission if you
5 could --

6 THE COURT: Hold on a second.

7 MR. LALLY: My apologies, Your Honor.

8 THE COURT: Go ahead.

9 MR. LALLY: With the Court's permission, may the
10 witness remove the three smaller bags from the larger
11 bag?

12 THE COURT: Yes.

13 Q And, Trooper, if I could, just in succession, if I
14 could ask you to please open the bag with respect to
15 February 8, first? And before you do that, I apologize
16 again.

17 With respect to that bag, what, if any, indication
18 is there as to the contents therein?

19 A It says, "Taillight, one large piece of plastic
20 color red, one small piece of red plastic, and one
21 piece of black plastic located at 34 Fairview Road,
22 front lawn, left side."

23 Q Thank you, sir. If you could please remove those.

24 A (Witness complies.)

25 Q Sir, you can place those back in the bag.

1 MR. LALLY: Your Honor, the Commonwealth would
2 seek to introduce it as the next exhibit.

3 MR. JACKSON: No objection, Your Honor.

4 THE COURT: Okay.

5 THE COURT REPORTER: Exhibit 563.

6 (Whereupon Exhibit No. 563, Evidence Bag with Pieces of
7 Red, Clear, and Black Taillight Pieces, was marked and
8 entered as an exhibit.)

9 Q Sir, if I could ask you just to retrieve the bag
10 that's marked -- retrieve the bag of items that were
11 seized on February 11, and if you could read to the
12 jury what the description is in regard to that evidence
13 bag.

14 So it's from the 11th. This one is described as,
15 "Glass fragments," I can't tell how many pieces. It's
16 been taped over. The second bag from the 11th says,
17 "Three pieces of clear plastic, five pieces of red
18 plastic."

19 MR. LALLY: And with the Court's permission, may
20 the witness remove those items from the bag?

21 THE COURT: All right.

22 A The small bag in here containing the glass, do you
23 want me to cut that open as well?

24 Q I think that's sufficient.

25 THE COURT: All right. So Madam Court Reporter

1 will -- are you moving to introduce it?

2 MR. LALLY: Yes.

3 THE COURT: With Madam Court Reporter. Any
4 objection? We can go ahead --

5 MR. JACKSON: I don't want to object, but I don't
6 know what's in that bag.

7 THE COURT: Go ahead and open it.

8 THE WITNESS: Yes, Your Honor.

9 A These items appear to be just further sealed up
10 and wrapped up and --

11 THE COURT: Do you want him to open every one, Mr.
12 Jackson?

13 MR. JACKSON: May I approach?

14 THE COURT: Yes.

15 MR. JACKSON: I just can't see that far.

16 THE COURT: All right. So go --

17 MR. JACKSON: I don't need them both. No
18 objection.

19 THE COURT REPORTER: We have a number of how many
20 small pieces?

21 THE COURT: How many pieces are in there, Trooper?

22 THE WITNESS: One, two -- seven.

23 THE COURT REPORTER: That will be 564.

24 THE COURT: Thank you.

25 THE COURT REPORTER: The brownbag will be 564A.

1 THE COURT: Thank you.

2 THE COURT REPORTER: Containing seven pieces.
3 (Whereupon Exhibit No. 564, Small White Bag with Seven
4 Pieces of Glass Inside Brown Evidence Bag, was marked
5 as an exhibit.)

6 (Whereupon Exhibit No. 564A, Evidence Bag with Small
7 White Bag Containing Seven Pieces, was marked as an
8 exhibit.)

9 Q Trooper, if you could, the other bag from the
10 11th, if you could open that up and remove those items.

11 Thank you, sir. If you could put those back in
12 the bag.

13 A (Witness complies.)

14 MR. LALLY: Your Honor, the Commonwealth would
15 seek to introduce and admit as the next exhibit.

16 MR. JACKSON: No objection.

17 THE COURT REPORTER: Exhibit 565.

18 (Whereupon Exhibit No. 565, Evidence Bag with Eight
19 Pieces of Red and Clear Plastic, was marked as an
20 exhibit.)

21 Q And lastly, sir, with regard to the bag from
22 February 18, if you could read to the jury what's
23 indicated as far as contents therein?

24 A "Several pieces of red and clear plastic."

25 MR. LALLY: Your Honor, with the Court's

1 permission, may the witness retrieve the items?

2 THE COURT: Yes.

3 Q Thank you, sir. If you could return the items to
4 the bag.

5 A (Witness complies.)

6 MR. LALLY: Your Honor, the Commonwealth is
7 seeking to admit that as an exhibit.

8 MR. JACKSON: No objection.

9 THE COURT: All right.

10 THE COURT REPORTER: Exhibit 566, Your Honor.

11 (Whereupon Exhibit No. 566, Evidence Bag with Pieces of
12 Red and Clear Plastic, was marked as an exhibit.)

13 THE WITNESS: Here's the original bag.

14 Q Now, Trooper, with regard to each of those items
15 from February 8, 10, and 11th -- excuse me. Forgive
16 me. Eighth, eleventh, and eighteenth, those were all
17 items that you recovered from the front lawn area of 34
18 Fairview Road; is that correct?

19 A Correct.

20 Q And what was just displayed to the jury, is that
21 essentially the condition they were in when you
22 recovered them on those respective dates?

23 A Yes.

24 Q Now, if I could turn your attention just briefly
25 regarding the search warrants in regard to the Ring

1 video from Mr. O'Keefe's house.

2 Was that one search warrant or more than one
3 search warrant that you did in respect to those Ring
4 video?

5 A There was a second search warrant for the Ring
6 videos for Mr. O'Keefe's house.

7 Q And if you recall, what was the general time frame
8 that was asked for in that warrant as far as from what
9 date to what date?

10 A The second one I believe was January 30 to either
11 the 3rd or the 4th I believe.

12 Q Was the first one essentially from the 24th to the
13 29th?

14 A Yes.

15 Q Now, with respect to the video that you received
16 in regard to the first search warrant through Ring,
17 what kind of information did you receive from Ring as
18 far as what -- beyond sort of beyond the video itself,
19 what, if any, other information did you receive as far
20 as accounts or activity or anything like that?

21 A It was just confirming that the user account was
22 under Mr. O'Keefe's email and then there was an Excel
23 file where you kind of have to transcribe. So each
24 video has about a 17 digit number associated with a
25 unique identifier. You take that 17 digit number and

1 you got to convert it using these Excel files to get
2 the date and time.

3 Q Now, with respect to what you received pursuant to
4 the search warrant from Ring, was there any kind of
5 activity log, and what I mean by that, what, if any,
6 information did you receive as far as what sort of
7 devices or how many different devices were able to
8 access that footage?

9 A Yeah, I wasn't able to obtain an activity log of
10 who was using the device, what device was accessing the
11 system, you know, something, you know, if someone
12 logged in, I had no -- was not provided with any record
13 of who was logging in or what day or time.

14 Q Now, are you familiar with the term just as far as
15 videos are concerned or electronic devices what's
16 referred to as a digital footprint?

17 A Yes.

18 Q Now with respect to some of these -- or the Ring
19 videos in totality that you received and that you also
20 viewed pursuant to the app on Mr. O'Keefe's phone, were
21 there certain time periods where you would've expected
22 to see video in which there was no video?

23 A Yes.

24 Q And can you describe for the jury sort of when
25 those time periods were?

1 A So the Ring camera above Mr. O'Keefe's garage is
2 pretty sensitive, so it does not have Ms. Read arriving
3 back at Mr. O'Keefe's house. Around 12:34 a.m. is
4 approximately when she should've arrived. The only
5 video -- there's a gap from approximately 11:45 p.m. on
6 the 28th to about 5:07 a.m. on the 29th when Ms. Read
7 is backing out. It never has her pulling into the
8 garage.

9 And there's also a second video of Ms. Roberts,
10 Ms. McCabe, and Ms. Read looking at the broken
11 taillight in the morning.

12 Q What, if any, follow-up or inquiry did you make of
13 Ring in regard to those missing videos?

14 A Yeah, I inquired several different times as far as
15 if a video is deleted, is there some type of a record?

16 MR. JACKSON: Objection, Your Honor.

17 THE COURT: That was his inquiry. But next
18 question. I'll allow that.

19 Q Now as far as that term that you used before as
20 far as a digital imprint, can you explain to the jury
21 what you understand that term to mean?

22 A Essentially, a digital footprint is if, you know,
23 a video is created it's going to leave some type of
24 record in the archives.

25 Q And what, if any, information did you receive from

1 ring as far as their videos' system is concerned and in
2 regard to a digital footprint?

3 MR. JACKSON: Objection.

4 THE COURT: Not what anybody told you, but what
5 you received.

6 A That if the video is deleted --

7 MR. JACKSON: Objection.

8 THE COURT: The objection is sustained.

9 MR. JACKSON: Move to strike.

10 THE COURT: I'm going to strike that.

11 Q Upon your further inquiry of Ring, were you ever
12 able to obtain any video from those specific sections
13 where you anticipated video would be?

14 A No.

15 Q Now, sir, if I could turn your attention to
16 January 16, 2024. Do you recall that date?

17 A I do not, sir.

18 Q At some point over the course of your
19 investigation, were you made aware of forensic evidence
20 in relation to the taillight housing that was
21 introduced earlier as an exhibit?

22 A Yes.

23 Q And with respect to that, at some point did you
24 have occasion to meet with a Sergeant Brian Gallerani
25 of the Needham Police Department?

1 A Yes.

2 Q And where was that?

3 A In the DA's office.

4 Q And who, if anyone else, involved in this
5 investigation as far as yourself? Was Sergeant
6 Bukhenik there with you as well?

7 A Yes.

8 Q And what, if anything, did Sergeant Gallerani do
9 with respect to yourself and Sergeant Bukhenik on that
10 date in January of 2024?

11 A Sergeant Bukhenik and I voluntarily provided our
12 DNA for comparison testing.

13 Q And again, taking me to my next point, that was a
14 voluntary decision that both you and Sergeant Bukhenik
15 made as far as availing yourself or availing of that
16 particular testing?

17 A Correct.

18 Q And as far as the testing, do you know how that
19 was -- or can you describe for the jury sort of how
20 that sample was collected or how it was conducted?

21 A Essentially, it's just a swab of the mouth under
22 the tongue with like a -- it's basically like a little
23 pad on a stick and you get swabbed and that's how the
24 DNA or saliva is collected.

25 Q And as far as those samples that were collected

1 from both yourself and Sergeant Bukhenik on that
2 particular day, where did they go from there as far as
3 you know?

4 A It was my understanding they went to the Bode Lab
5 in Virginia.

6 Q And I'm sorry. What I should have asked as far as
7 that when they left from the room that you were in with
8 Sergeant Gallerani, did you take those swabs or did
9 Sergeant Gallerani take those swabs?

10 A No.

11 Q Where did they go?

12 A Sergeant Gallerani took possession of those items.

13 Q Thank you, sir.

14 Now, sir, with reference over the course of your
15 investigation, you interviewed a number of different
16 witnesses, correct?

17 A Yes.

18 Q And from the witnesses that you -- were there
19 witness interviews that were conducted outside of your
20 presence in the sense that you weren't there for those
21 particular witness interviews?

22 A Yes.

23 Q And each of the interviews that you're aware of,
24 whether they were conducted by you or outside your
25 presence, were done with the exception of the Currans,

1 were done with more than trooper present, correct?

2 A Correct.

3 Q Now, with respect to those witness interviews that
4 you were present for, from the witnesses that you spoke
5 with, along with other troopers that were present with
6 you, who if any of those witnesses had you met or were
7 you -- did you know prior to the interview that you
8 conducted?

9 A Yeah. So all the witnesses that I had
10 interviewed, the only individuals that I know or had
11 prior to this investigation was Julie and Chris Albert
12 and Colin Albert.

13 Q And how is it that you knew Julie Albert,
14 Christopher Albert, and Colin Albert?

15 A So my sister Courtney, her friend growing up
16 Jillian, Jillian's sister is Julie. My sister got to
17 know Julie Albert - or Julie Daniels is her maiden name
18 - through her friend Jillian. Julie married Chris
19 Albert, so my sister got to know Chris through Jillian
20 and Julie. And then years down the road, my sister had
21 Julie babysit my nephew. She would -- Julie would come
22 from time to time and pick my nephew up from school.
23 So that's how they kind of became friendly. And on
24 occasion, they would be over my sister's house or at my
25 parents' backyard, and Julie and Chris and their kid

1 Colin and I would happen to be there.

2 Q Let me ask it this way. As far as -- where did
3 grow up?

4 A Canton.

5 Q And did you graduate from Canton High School?

6 A Yes.

7 Q And as far as any of the witnesses that you
8 interviewed, even the Alberts that you were just
9 talking about Christopher, Julie, and Colin Albert,
10 were they around the same ages as you or went to high
11 school with you at the same time?

12 A No.

13 Q How much older than you were Julie and Chris
14 Albert?

15 A At least ten years.

16 Q And as far as Colin Albert, how much -- what's the
17 age difference between yourself and him.

18 A At least 20.

19 Q Fair to say around this time of January 2022, do
20 you know how old Colin was or what level of school he
21 was at that point?

22 A He was a senior in high school, I believe.

23 Q And is that something that you learned through
24 this investigation or something that you knew
25 independently?

1 A Something I learned through this investigation.

2 Q Now, so you grew up in Canton and your sister did
3 as well?

4 A Yes.

5 Q And your sister's name is Courtney; is that
6 correct?

7 A Correct.

8 Q And what is the age difference between yourself
9 and your sister Courtney?

10 A She's two years older than me.

11 Q And how close are you and your sister?

12 A She's probably one of my best friends. We talk
13 about five, six times a day about anything and
14 everything as far as like mostly our children.

15 Q And she has -- how many children does your sister
16 have?

17 A She's got two.

18 Q And about how old are they?

19 A Ten and seven.

20 Q And you have children as well?

21 A I do.

22 Q And how old are they?

23 A Two and four.

24 Q Now with respect to the conversation that you have
25 with your sister about five or six times a day, how do

1 you have those conversations? Is it via voice call or
2 in person or text or if you know?

3 A Everything. FaceTime, phone calls, text messages.
4 We're always kind of keeping each other up to date on
5 mainly our kids.

6 Q Now, as far as Julie and Christopher Albert, when
7 did you interview them in relation to this incident?

8 A Sometime in February. I'd have to look at my
9 report for the exact date.

10 Q Sometime in say early to mid-February?

11 A Yes.

12 Q And with respect to them, who, if anyone else, was
13 present with you when you interviewed them?

14 A Sergeant Bukhenik.

15 Q And do you recall where you -- where the interview
16 took place?

17 A Yes, it was at their home.

18 Q Now, prior to this date that you went over to
19 interview Christopher and Julie Albert, had you ever
20 been over to that house before?

21 A No.

22 Q Had you ever been over to any home where
23 Christopher and Julie Albert had presided then or
24 previously to that date?

25 A No.

1 Q Had Christopher or Julie Albert, to your
2 knowledge, ever been over to your home?

3 A No.

4 Q Now, with respect to Christopher and Julie Albert
5 and Colin Albert - we'll throw him in there as well -
6 how would you sort of describe your relationship with
7 them prior to January 29th of 2022?

8 A I'd classify it as acquaintances.

9 THE COURT: All right. Mr. Lally, why don't we
10 take our luncheon break.

11 MR. LALLY: Sure.

12 (Jury out.)

13 THE COURT: Trooper, you can just follow the court
14 officer out.

15 THE WITNESS: Okay. Thank you, Your Honor.

16 MR. JACKSON: Could counsel approach?

17 THE COURT: Sure.

18 THE CLERK: Counsel.

19 (Sidebar commences:

20 MR. JACKSON: The question was objected to; the
21 answer was stricken, but I'm concerned about one of the
22 answers that was attempted to be elicited. This --
23 he's gone now.

24 THE COURT: Right.

25 MR. JACKSON: This witness indicated an

1 objectionable hearsay question about hearing from Ring
2 that videos -- that the digital fingerprint suggested
3 that videos had been deleted is the first I've heard of
4 that. No, I have no report on that.

5 MR. LALLY: That's not what he said and that's not
6 what he was -- what I was trying to elicit from him was
7 that if a video was deleted, there is no digital
8 footprint in relation to that video so you can't tell,
9 and Ring couldn't tell us or him whether or not a video
10 had existed in some place that wasn't there anymore.
11 So he wasn't testifying that something had been
12 deleted. He was just testifying that if something had
13 been deleted, there would be no record, there would be
14 no -- no documentation regarding that.

15 THE COURT: Okay.

16 MR. JACKSON: That's very different than what I --

17 THE COURT: And that's exactly what I have that
18 the video was deleted. If the video would create -- I
19 sustained the objection and I struck it. He said
20 deleted as well, created a footprint, never obtained
21 video. I thought the answer was just going to be, did
22 you ever obtain it, and the answer was no.

23 MR. JACKSON: Right. He started with the two
24 words "deleted videos" and I objected and that was
25 stricken because it was obviously hearsay. That leaves

1 the jurors with the impression that I was that it was
2 stricken, and I expect them to follow their
3 instructions, but it seems like there is a bell that's
4 been rung, unless I'm mistaken, and to put it
5 incorrectly, and I'll rely on co-counsel to correct me
6 if I am, but it sounded very much like what he was
7 about to say was he was told by Ring that there was the
8 digital fingerprint or digital footprint that indicated
9 that there were deleted videos in that database.

10 THE COURT: That's an awful lot for him to get out
11 when it was struck, right? Like, the objection is
12 sustained. Move to strike. Stricken. I didn't hear
13 all of that.

14 MR. JACKSON: All he said -- all he -- he got out
15 two words, and the two words were "deleted videos" and
16 I thought he was about to say deleted videos weren't
17 found in the system and I objected.

18 THE COURT: You just said a whole string of words
19 that I thought you said he said.

20 MR. JACKSON: Right. I think -- may I -- I think I
21 can clear this up. Let's do this after lunch.

22 THE COURT: No, no, let's do it now. I don't want
23 to bring them in.

24 (Counsel confer.)

25 MR. JACKSON: So what Mr. Yanetti just told me is

1 what I'm trying to say inartfully is the term "digital
2 fingerprint" was used in the question and then the
3 answer the words "deleted videos" were used and the
4 inference it's speculation that a digital fingerprint
5 shows that there were deleted videos. That needs to be
6 cleared up.

7 THE COURT: But it was all struck, right?

8 MR. JACKSON: I don't know.

9 THE COURT: It was struck. What are you asking me
10 to do, specifically?

11 MR. JACKSON: Maybe we can stipulate that --

12 THE COURT: No, no, this will be an instruction.
13 That's why what are you asking me to do?

14 MR. JACKSON: To instruct the jurors exactly what
15 Mr. Lally just said, which I have no problem with. If
16 that's what he was seeking to elicit, that is
17 consistent with the information we have that there
18 would be no digital fingerprint so whatever that
19 sentence was that he just said, I think the jurors
20 should be instructed on that because that's the true
21 fact.

22 THE COURT: So I'm not going to give an
23 instruction that says what a fact is. You can do that
24 through cross-examination. I can give an instruction
25 that says, anything that I order you -- that I order

1 stricken from the record, you are not to consider.

2 MR. JACKSON: That would be fine, Your Honor.
3 That would be fine.

4 THE COURT: So it's an instruction, not me
5 commenting on the evidence --

6 MR. JACKSON: Understood.

7 THE COURT: -- and saying this is the evidence.

8 MR. JACKSON: As long as I have the room to do it
9 in cross, then I have no problem with that.

10 THE COURT: Do you have any objection to me just
11 saying that when we come back out?

12 MR. LALLY: No.

13 THE COURT: That's what I'm going to say.

14 MR. JACKSON: Okay.

15 THE COURT: Regarding the experts, let's -- have
16 you heard from anybody as to when they're available?

17 MR. JACKSON: We're about to turn our cell phones
18 on. My cell phone is off during the jury session.

19 THE COURT: Okay. What makes sense -- I think this
20 is going to take more than half a day, and nothing --
21 and it happens in every trial. Nothing has taken the
22 time we thought, and it's important. So I'm going to
23 once again tell the jury they have a day off this week.
24 I prefer to do Thursday because then at least they have
25 testimony on Monday, Wednesday, and Friday. They have

1 at least the semblance of a full week. So I'd like you
2 to tell your experts Thursday.

3 MR. JACKSON: Okay. Let us make the phone calls
4 then --

5 THE COURT: Okay.

6 MR. JACKSON: -- and see what we can do.

7 THE COURT: All right.

8 MR. JACKSON: Thank you, Your Honor. We'll do our
9 best effort.

10 THE COURT: Hold on. Does that screw up any
11 witnesses you're flying in or anything?

12 MR. LALLY: So that's what I was just starting to
13 think is we have Bode people flying in on Thursday.
14 But if --

15 THE COURT: Do you want to do this Wednesday then?
16 We just need to get it done.

17 MR. JACKSON: I just have to see if I can get the
18 three witnesses.

19 THE COURT: All right.

20 MR. JACKSON: One's coming in from California and
21 the other two are from Pennsylvania.

22 THE COURT: Okay.

23 MR. JACKSON: But I'll do my level best.

24 THE COURT: Okay.

25 MR. LALLY: What order --

1 THE COURT: If you can do Wednesday, you can do
2 Wednesday, but just I need to tell the jury today.

3 MR. JACKSON: Right.

4 THE COURT: And your witness I'm sure you -- will
5 be made available -- I'm sure they'll be available, but
6 the Bode people testify all over the country, right?

7 MR. JACKSON: Right.

8 MR. LALLY: I mean, what I can say is I don't
9 anticipate, you know, not knowing cross, but I don't
10 anticipate their testimony being very lengthy at all.
11 We can probably do them in a couple of hours if --

12 THE COURT: But that still puts us in half a day
13 time. I cannot image these voir dires taking a half a
14 day.

15 MR. JACKSON: May I inquire?

16 THE COURT: Okay.

17 MR. JACKSON: Can we stipulate to Bode? Is there
18 any reason why we can't stipulate to Bode?

19 MR. LALLY: I -- no.

20 MR. JACKSON: You cannot.

21 MR. LALLY: No.

22 THE COURT: All right. I'm -- I am taking a
23 recess.

24 MR. JACKSON: Thanks, Your Honor.

25 THE COURT: Forty-five minutes.

1 (Court in recess.)

2
3
4
5 (Court in session.)

6 (Defendant is present with counsel.)

7 (Jury in.)

8 THE COURT: So, jurors, before we begin, Mr.
9 Lally, as you approach the podium there. When I tell
10 you that I strike something from the record, I know
11 I've told you before, that means you're not consider
12 it. Okay.

13 Go ahead, Mr. Lally.

14 MR. LALLY: Thank you, Your Honor.

15 Q (By Mr. Lally) Good afternoon, sir.

16 A Good afternoon, sir.

17 Q So with reference to I believe before we broke we
18 were talking little bit about Julie Albert and
19 Christopher Albert, correct?

20 A Yes.

21 Q And how would you describe your relationship, if
22 any, between Julie Albert and Christopher Albert prior
23 to January 29, 2022?

24 A Loose acquaintances.

25 Q People that you knew through your sister; is that

1 correct?

2 A Correct.

3 Q Now, with reference to the occasions that you had
4 said where you may have been at the same place at the
5 same time at a family function or something like that,
6 over what period of time are we talking about and about
7 how many different instances of that occurred over
8 those years?

9 A Like I mentioned, they had never been over to my
10 house. So it was either at my sister's home or my
11 parents' house over the course of maybe ten years. I
12 might've been at the same function a half a dozen
13 times.

14 Q And at those times that you were at the same
15 function a half a dozen times or so, how much
16 interaction would you have with either Christopher
17 Albert or Julie Albert or even Colin Albert at those
18 functions?

19 A Just casual conversation. It would be cordial
20 and just typical conversations, you know, hi, how's it
21 going, things of that nature.

22 Q Now with reference to these experiences or
23 relationships or lack thereof that you have with
24 Christopher and Julie Albert, what, if any,
25 conversations did you have with your supervisors as far

1 as superior officers within your unit in regard to
2 this?

3 A I explained the connection or with my sister to
4 the Albert family.

5 Q And who did you explain that to, sir?

6 A That would be Sergeant Bukhenik, Lieutenant
7 Fanning, and Detective Lieutenant Tully.

8 THE COURT: All right. Trooper, I'm going to ask
9 you to keep your voice up. Maybe approach the
10 microphone a little bit closer.

11 Q And just with respect to those disclosures, what
12 specifically did you tell either Sergeant Bukhenik or
13 Lieutenant Fanning or Lieutenant Tully?

14 A Basically, that there's -- that the Alberts are my
15 sister's friends, that I've been at some functions with
16 them, and the only kind of connection with the Albert
17 family is through my sister.

18 Q And just when you say the Alberts as far as, who
19 specifically within the Alberts are you talking about
20 that had a friendship with your sister?

21 A Julie, Chris, and their son Colin.

22 Q Now, with regard to the investigation that you
23 were conducting and the interviews that you conducted,
24 what, if any, impact did that -- those relationships
25 have with regard to your interviews of them

1 specifically or the investigation in total?

2 A Zero. Absolutely zero impact on this
3 investigation.

4 MR. LALLY: Your Honor, may I approach?

5 THE COURT: Yes.

6 Q Sir, I'm showing you a document. Do you recognize
7 that?

8 A Yes.

9 Q And what do you recognize it to be?

10 A It's a text message thread labeled Proctor
11 friends.

12 Q Now, over the course of your investigation over
13 the course of this case, are you aware that there were
14 iCloud data that was obtained from your personal cell
15 phone?

16 A Yes.

17 Q And different text strings from that iCloud data
18 from your personal cell phone, correct?

19 A Correct.

20 Q And with respect to what has just placed before
21 you, is that an excerpt or a piece from those
22 particular messages?

23 A It is.

24 Q And from the front page of that, can you tell the
25 jury who are sort of the participants in this

1 particular text communication?

2 A There's several numbers that aren't identified.
3 The three that are our under kind of nicknames me and
4 my buddies have for each other.

5 Q And generally speaking just as far as the
6 participants in this text communication, who are these
7 people to you and how do you know them, how long have
8 you known them, who are they?

9 A The members on this text thread are close friends
10 from junior high, first grade even.

11 Q So people you've known for years; is that correct?

12 A Correct.

13 Q And do each of them live or do any of them live
14 within the general area at this time?

15 A Some of them do, yes.

16 Q And so when some them do and some them do not; is
17 that correct?

18 A Correct.

19 Q And the ones that do not, how far away do they
20 live?

21 A As far away as Tennessee.

22 Q Now, with reference to this, there's an indication
23 as far as the first message sent or last message sent
24 from this particular text chain, correct?

25 A I'm sorry. Repeat the question, please.

1 Q Sure. Sort of towards the middle of the first
2 page, I direct your attention to that area. Is there
3 any indication as far as the first message sent and the
4 last message sent with respect to this text chain?

5 A On the first page, yes.

6 Q And what is indicated as far as the first message
7 and the last message?

8 A The first message is, "I need to brandish a gun
9 more often." The last is, "Chip. Name of that BPD
10 cop."

11 Q No, I'm sorry, sir. If I could direct your
12 attention to the first page in this packet, page 2527.
13 Do you see conversation details?

14 MR. LALLY: I'm sorry, Your Honor. May I
15 approach?

16 THE COURT: Yes.

17 Q If I could direct your attention to right.

18 A Okay.

19 Q Do you see was I was talking about now?

20 A I do, sir.

21 Q And from that area labeled conversation details,
22 there's a first message sent, date and time and a last
23 message sent, date and time, correct?

24 A Yes.

25 Q Okay. And what is the first message sent, date and

1 time?

2 A It's 10/18 of 2021 at 8:48 a.m. The last message
3 sent is 8/31/2022 at 11:19 p.m.

4 Q And is there also within that conversation details
5 and indication as far as number of messages over that
6 time frame within this communication?

7 A There is.

8 Q And what does it list for number of messages?

9 A It's 38,707.

10 Q And fair to say the packet that you have before
11 you does not contain all 38,707 messages, correct?

12 A That's correct.

13 Q The first message that you had I believe alluded
14 to in reference to the first one listed within this
15 communication, what date and time is that?

16 A That was January 29, 2022, at 10:36 p.m.

17 Q And who is that message from?

18 A My friend who lives in Tennessee.

19 Q And what, if anything, did he send to the group?

20 A I need to brandish a gun more often.

21 Q And if you know, what is that in reference to?

22 A He just recently moved to Tennessee and he was
23 kind of I think making a joke kind of the lifestyle
24 down there where guns are more prominent or more common
25 to be carried around there. So I interpreted that as a

1 joke in that nature.

2 Q And the next message, sir, from that same page
3 2527.

4 A The next one is, "It's bold."

5 Q And is there a name associated with that number
6 that's in these?

7 A No.

8 Q And do you know who that person is?

9 A I don't.

10 Q In the next message, sir, from 10:52 p.m.?

11 A "Chip, name of that BPD cop."

12 Q And chip, who is that referring to, sir?

13 A That is one of my nicknames I've had since maybe
14 high school.

15 Q So a nickname that would be familiar amongst these
16 group of friends in particular?

17 A Yes.

18 Q And this time period when these text messages
19 begin sometime after 10:30 or 10:50 p.m. on January 29,
20 where are you and what are you doing in reference
21 around that time period?

22 A At this point in time on the 29th, I'm home.

23 Q And that last text message, do you respond to that
24 at approximately 10:53 p.m.?

25 A Yes.

1 Q And what was your response?

2 A "John O'Keefe."

3 Q And the next message down from there also at 10:53
4 p.m.?

5 A Yes. "He took custody of his kids sister's kids."

6 Q That's your response. There is another response
7 above that; is that correct?

8 A Yes.

9 Q And what does that say?

10 A "How old?"

11 Q And you respond as far as he took custody of
12 sister's kids, correct?

13 A Correct.

14 Q Skipping down a couple. Do you see an entry at
15 10:53:49 p.m.?

16 A Yes.

17 Q And that's from a 617 number; is that correct?

18 A Correct.

19 Q And what is the response there?

20 A "Oh, man. That's rough."

21 Q And following that, do you respond to the earlier
22 query as far as age?

23 A I do.

24 Q And what did you say?

25 A "Mid-40s."

1 Q Now, the next message below that as far as
2 indication of mid-40s, what is that?

3 A His age.

4 Q No, I understand that. I'm sorry. The next
5 message underneath that, sir.

6 A I'm sorry. It's a Facebook link.

7 Q And do you recall what that Facebook link is to?

8 A It's to John O'Keefe.

9 Q And is that something you sent or one your friends
10 sent?

11 A One of my friends sent.

12 Q And the next message below turning to now page
13 2529 at the top there. What is the next message that's
14 sent?

15 A "What's that? Don't have the book anymore."

16 Q And as far as the book, what did you understand
17 that to mean?

18 MR. JACKSON: Your Honor, may we approach?

19 THE COURT: Sure.

20 (Sidebar commences:

21 MR. JACKSON: My objection is relevance as it's
22 coming in through the Commonwealth. If this is
23 impeachment for bias, how is Mr. Lally going to go
24 through all of these text messages?

25 THE COURT: What do you say about that, Mr. Lally?

1 MR. LALLY: If there's a *Bowden* defense, if
2 there's an attack on this witness's credibility, which
3 has been done prior to this witness even getting on the
4 stand through almost every single witness that has come
5 up, I think it's relevant as to impute that bias or at
6 least to demonstrate exactly what that bias is, if
7 anything.

8 MR. JACKSON: He doesn't get to impeach his own
9 witness.

10 MR. LALLY: I'm not --

11 MR. JACKSON: He doesn't get to impeach --

12 MR. LALLY: Bias isn't impeachment.

13 MR. JACKSON: Excuse me. What he's trying to do
14 is lance the bullet.

15 THE COURT: Take the sting out.

16 MR. JACKSON: Correct.

17 THE COURT: Do you have an extra -- do you have an
18 extra copy? I didn't print them out. I read them
19 again yesterday. I didn't print it out. Do you have
20 an extra copy?

21 MR. LALLY: I just have a copy for myself and the
22 witness.

23 THE COURT: Okay.

24 MR. JACKSON: Do we have an extra copy? We have
25 one for me, one for the witness.

1 MS. LITTLE: I can give that to you now as long as
2 we get it back.

3 THE COURT: That would be helpful. Do you intend
4 to go through every single one?

5 MR. LALLY: No, no. Not every single one. I'm
6 just laying a foundation as far as this communication
7 goes and I'm getting into specific ones, and then
8 moving onto others.

9 MR. JACKSON: Yeah, and of course the specific
10 ones are the ones he wants to take the sting out of and
11 it's completely inappropriate.

12 THE COURT: But I don't know that yet. Are they?

13 MR. JACKSON: But I'm asking -- I'm asking the
14 Court to stop him from impeaching his own witness to
15 take the stand. It is irrelevant for purposes of bias.
16 The Commonwealth can't impeach their witness, and this
17 text stream is one that has exceedingly biased
18 information in it, and so, Mr. Lally, says, no, I'm
19 just going to do a few of them. The few of them that
20 he's going to go through are going to be the most
21 serious in terms of this witness's prejudice and bias
22 against my client. It's improper for him to do it in
23 advance.

24 THE COURT: What do you say?

25 MR. LALLY: I don't think it's at all improper for

1 me to do in advance. As far as -- it goes to this
2 witness's course of his investigation, it goes to,
3 again as I stated before, this is, you know, if we're
4 coming at this clean, and there had been no attack on
5 this witness's credibility or his bias or anything else
6 that had been presented prior to or taking the stand of
7 this trial, I might see more of a point to what Mr.
8 Jackson is saying, but given what's gone on throughout
9 the course of the trial, I think it's more than fair
10 and appropriate for the witness to explain.

11 MR. JACKSON: He has to explain this under cross-
12 examination. The fact that he attacked his credibility
13 is exactly why Mr. Lally cannot, the Commonwealth
14 cannot --

15 THE COURT: So what I need -- I'm going to give
16 the jury a five-minute break. I need to read them and
17 see. We'll give them a ten-minute break. So if you
18 could give that to me, that would be helpful.

19 MR. JACKSON: Immediately.
20 end of sidebar.)

21 THE COURT: Jurors, we're going to take a ten-
22 minute break.

23 (Jury out.)

24 THE COURT: So do you have that copy for me?

25 MS. LITTLE: I do. I just --

1 THE COURT: Thank you.
2 end of sidebar.)

3 THE COURT: All right. Ten-minute break. Okay.
4 (Jury out.)

5 THE COURT: So do you have that copy for me?
6 (Court in recess.)

7
8
9
10 (Court in session.)

11 (Defendant is present with counsel.)

12 THE COURT: Why don't you all come over again.

13 THE COURT OFFICER: Folks, remain standing.
14 Jurors are coming in. Please stand.
15 (Jury in.)

16 (Sidebar commences:

17 THE COURT: All right. So I'm overruling the
18 objection. You can go ahead and make -- you can go
19 ahead and make your record.

20 MR. JACKSON: Your Honor, it appears that the
21 Commonwealth is taking a tactical approach to improper
22 and not allowed under the evidence code by presenting
23 evidence that is completely irrelevant to the
24 Commonwealth's case in chief and irrelevant to this
25 witness --

1 end of sidebar.)

2 THE COURT OFFICER: You may be seated. Court's
3 now back in session.

4 (Sidebar commences:

5 MR. JACKSON: -- irrelevant to this witness
6 pursuant to their direct examination. If I choose to
7 cross-examine him, this witness on issues of bias, then
8 re-direct examination is the appropriate mechanism by
9 which the Commonwealth can and try to rehabilitate him.
10 But for them to go through and literally they've just
11 been arguing that he's unbiased in his direct
12 examination. Then they try to show all of the bias in
13 order to, as the Court said earlier, to take the sting
14 out it. That's an improper use of direct examination
15 for their purposes. For this purpose, it is completely
16 irrelevant. We don't get to call the witness for the
17 purpose of impeaching him in order to keep the
18 opponent, the other side, from being able to impeach
19 that witness. If they go through all of these text
20 messages, all of these date books, then the Court can
21 expect I'm going to go through every single one of
22 those again. It's a waste of time. It's a waste of
23 judicial resources, and it's irrelevant for purposes of
24 the Commonwealth's presentation.

25 THE COURT: Okay. What do you want to say just to

1 complete the record?

2 MR. LALLY: Just to complete the record, Your
3 Honor, what I would say is that from the very first
4 words out of Mr. Yanetti's mouth in his opening
5 statement that his client was framed, that's
6 essentially been the posture of defense.

7 THE COURT: All right. So talk about the evidence.

8 MR. LALLY: No, and what I'm saying is that
9 dovetails into the evidence as far as almost every
10 single witness has been asked questions about this
11 witness and about this witness's purported bias or
12 about this witness's, you know, lack of integrity in
13 the investigation, so on and so forth, and, you know,
14 suggestions there was planted evidence, suggestions
15 that he's, you know, very early on focused on the
16 defendant and this is, you know, information related to
17 that that I think is entirely relevant based on the
18 fact that the defendant has put it out there.

19 THE COURT: Okay. All right. So your objection is
20 overruled. **Court Order: Jurors or Juror Issues**

21 **[REDACTED]**
22 MR. JACKSON: Okay.

23 THE COURT: All right. Did you get -- while we're
24 here, did you hear back from your experts?

25 MR. JACKSON: I did. I did. So I got a hold of

1 Dr. Wolfe and Dr. Rentschler. They're going to try to
2 text me before the end of the day and see if they can
3 come and be available on Wednesday. They're not
4 positive. I said give a second date of Friday,
5 potentially, maybe even Monday. Just give me some
6 options. They said they would. And I then contacted
7 Dr. Russell. She said, "I think I can catch a flight
8 Wednesday night for Friday." But she cannot be here
9 Wednesday because she's got some --

10 THE COURT: Okay.

11 MR. JACKSON: And with Dr. -- Dr. Vanee, he said,
12 "I think I can make either Wednesday or Friday work."
13 He's closer.

14 THE COURT: Okay. Any idea what works for the
15 Commonwealth?

16 MR. LALLY: Well, I mean so I would suggest having
17 Thursday that would be problematic.

18 THE COURT: Right. So Thursday. So Mr. Jackson
19 is trying to see about Wednesday and Friday to
20 accommodate you not being able to do Thursday.

21 MR. LALLY: The other issue is Ms. Hyde is flying
22 in Thursday to testify Friday.

23 THE COURT: All right. So we have to do Wednesday.

24 MR. JACKSON: The only thing I would say, and I
25 wanted to put this on the record and see if I could

1 throw myself on the mercy of the Court --
2 end of sidebar.)

3 THE COURT: Sorry, folks, this will be two more
4 minutes.

5 (Sidebar commences:

6 MR. JACKSON: I'll make it very quick. This is
7 probably going to cost the defense anywhere between
8 fifteen, eighteen, maybe more thousand dollars to get
9 them out here, all of them out here and back. If
10 there's any way that the Court could see clear of doing
11 this when we start -- before we start our case in
12 chief, that would allow us to bring everybody out here
13 one time, voir dire, and if they're allowed they can
14 testify right then rather than roundtrips back and
15 forth. It's just silly.

16 THE COURT: I'll think about it, but no notice had
17 been given. I understand you say your hands are tied on
18 that. The biomechanical engineers or particularly this
19 doctor from California or the last doctor. All right.
20 Let's go back and start this case?

21 (Overlapping discussion.)

22 MS. LITTLE: Sorry. I just need --

23 THE COURT: Okay. So I need Mr. McDermott to go
24 make a copy real quick. So which ones? Do you need
25 them all back right now? I would have printed them.

1 Which ones are you --

2 MS. LITTLE: You can keep them for right now as
3 long I can get them back before we start.

4 THE COURT: Oh, yeah. You'll definitely -- I
5 don't think you'll start today.

6 MR. JACKSON: Okay.

7 MS. LITTLE: No problem.

8 THE COURT: Thank you.

9 end of sidebar.)

10 THE COURT: Can we get the witness back, please.

11 MR. LALLY: May I proceed, Your Honor?

12 THE COURT: Yes.

13 Q Trooper, if I could direct you back to page 2529
14 within that packet before you.

15 And below that text stating, "What's that? I don't
16 have the book anymore," you respond; is that correct?

17 A Yes.

18 Q And what is it that you say there?

19 A "This one is a nightmare. Give up the kids.
20 That's awful."

21 Q And, sir, if I could direct your attention again
22 within that same packet to 2532. And there's a message
23 there sent at 10:56 p.m.; is that correct?

24 A Yes.

25 Q And who is that from?

1 A A friend who lives in Tennessee.

2 Q And what does he say in that text?

3 A "I'm sure the owner of the house will receive some
4 shit."

5 Q And you respond at 10:56 as well as 10:57; is that
6 correct?

7 A Correct.

8 Q And what is it that you respond?

9 A My first response is, "Nope. Homeowner is a
10 Boston cop, too."

11 Q And what, if anything, were you saying or what was
12 the purpose of that text in regard to the homeowner?

13 A I was just letting him know that essentially Mr.
14 O'Keefe is a Boston cop and the homeowner was a Boston
15 cop as well.

16 Q Now, if I could turn your attention to 2533. And
17 the top of the page, sir, if you could read through
18 that page as far as who's texting and what do they say?

19 A Again, from my friend from Tennessee and myself.
20 "I hope not, but I can't see it." I responded with,
21 "She waffled him. I looked at his body at the hospital.
22 He was banged up."

23 Q Now as far as the next text from a 781 number?

24 A Mm-hmm.

25 Q What does that say?

1 A "Did he get beat up?"

2 Q And you responded to that; is that correct?

3 A I did.

4 MR. JACKSON: Objection, Your Honor.

5 THE COURT: The objection is sustained as to form.

6 Q What, if any, response did you provide to that?

7 A "Nope."

8 MR. JACKSON: Objection. Your Honor, the
9 objection was to the form of the question and the
10 answer.

11 THE COURT: I'll strike it.

12 MR. JACKSON: Thank you.

13 Q Now, turning your attention to 2534. And from this
14 page, sir, if you could again just read through as far
15 as indicating to the jury who's speaking and what is
16 being said.

17 A From the start of the first text to the owner of
18 the house?

19 Q Yes.

20 A "So the owner of the house was a woman cop that
21 beat him. That's what I initially thought after talking
22 to Canton paramedic then I saw the guy.

23 Q And those last two are your responses; is that
24 correct?

25 A Yes.

1 Q Now the following text messages are from your
2 friend; is that correct?

3 A Yes.

4 Q What do they say?

5 A "Yeah, let's focus. What does she waffle the
6 mean? What's the story?" I responded, "She hit him
7 with her car."

8 Q And the she that you're referring to there, who is
9 that?

10 A Ms. Read.

11 Q Now turning your attention to the next page 2535.
12 Again, if you could start at the top of the page and
13 read through that page and just indicate to the jury
14 who is talking and what is being said.

15 A My friend in Tennessee states, "Okay. That's
16 fucked up." I respond, "Intentional or not," and then
17 add another response, "Gotcha. He was frozen in the
18 driveway and she didn't see him? That's another animal
19 we won't be able to prove." And then I respond, "They
20 arrived at the house together, got into an argument."

21 MR. JACKSON: I need to speak out loud or at a
22 turn.

23 THE COURT: The objection's overruled.

24 MR. JACKSON: Your Honor --

25 THE COURT: But --

1 MR. JACKSON: If I could say this, there needs to
2 be an identifier who's --

3 THE COURT: And I understand what you think the
4 mix-up is. So, Mr. Lally, go back.

5 MR. JACKSON: Thank you.

6 Q Sir, if you could, please again start at the top
7 of the page and just indicate --

8 THE COURT: No, just after the, "Gotcha. He was
9 frozen in the driveway," correct, Mr. Jackson?

10 MR. JACKSON: That's correct, Your Honor. Thank
11 you.

12 A I respond, "That's another animal we won't be able
13 to prove." I followed that up, "They arrived at the
14 house together, got into an argument. She was driving
15 and left." Seven-eight-one number responds with,
16 "What's the name of the Canton cop living in Canton,
17 the other one involved?"

18 Q And how do you respond to that, sir?

19 A There's several other messages before I issue a
20 response.

21 MR. JACKSON: Objection, again. Follow the page.

22 THE COURT: So it's not an objection, but, Mr.
23 Lally, why don't you point him.

24 Q So, sir, at the bottom of page 2535, you have a
25 response; is that correct?

1 A Correct.

2 Q And what is that response?

3 A "They arrived at the house together, got into an
4 argument, she was driving and left."

5 MR. JACKSON: Objection.

6 THE COURT: So it's going to be a matter you can
7 address on cross.

8 MR. JACKSON: There has to be some accuracy. The
9 reading --

10 THE COURT: So I understand. So, Mr. Lally, why
11 don't you go point for your witness.

12 MR. LALLY: May I approach, Your Honor?

13 THE COURT: Yes.

14 A Okay. It's an HTML link. It's
15 whiteout/proctor/icloud/groupchat/feb2022. Is that
16 what you're pointing at?

17 THE COURT: Can I see what you have a second,
18 please?

19 THE WITNESS: Yes, Your Honor.

20 THE COURT: Mr. Lally, it's on there. Why don't
21 you go show your witness. Why don't you just read it,
22 Mr. Lally, and tell us who you attribute it to.

23 MR. LALLY: Sure.

24 Q So, sir, what I'm asking you about is at the
25 bottom of page 2535 -- excuse me -- 26 -- 2535. You

1 indicated biffed(ph) him, correct?

2 A Correct.

3 Q And what did you mean by that?

4 A That Ms. Read had struck Mr. O'Keefe with her
5 vehicle.

6 Q Now, sir, if I could direct your attention to page
7 2537. Now, do you see a response towards the bottom of
8 the page from yourself January 29, 2022, at 11:04 p.m.?

9 A Yes.

10 Q And can you read that response for the jury?

11 A "Yeah, but there will be some serious charges
12 brought on the girl."

13 Q And what did you mean by that, sir?

14 A That throughout the course of the day, we had
15 compelling evidence that Ms. Read struck Mr. O'Keefe
16 with her vehicle.

17 Q And you have two responses from friends. The same
18 friends at the bottom of that page 2537; is that
19 correct?

20 A That's correct.

21 Q And what are those responses?

22 THE COURT: Keep your voice up loud, please,
23 Trooper Proctor. Jurors can't hear you.

24 THE WITNESS: Yes, Your Honor.

25 A Number ending in 5051, "Got to be. I can only

1 imagine what internal affairs of the BPD are trying to
2 get out there." And the second response same number,
3 "She hot at least?"

4 Q And turning your attention to the next page 2538
5 at the top, top if you could just read a series of
6 responses from yourself, correct?

7 A Yes, sir.

8 Q Could you read from those, sir?

9 A Yep. So these came from me. "From all accounts,
10 he didn't anything wrong. She's a whack job, C-U-N-T."

11 MR. JACKSON: Objection.

12 THE COURT: So don't spell it. You have to -- so
13 these are your words, Trooper Proctor?

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: Go ahead and say them.

16 A Cunt. "Yes, she's a babe with a Fall River accent,
17 though. Though no ass."

18 Q And, sir, what is it that you were referring to
19 there, or why would you text that?

20 A These were, from all accounts he didn't do
21 anything wrong, is talking about the homeowner Mr.
22 Albert. I had mentioned the compelling evidence
23 against Ms. Read at this point, indicated that Mr.
24 Albert had nothing to do with Mr. O'Keefe's death. The
25 rest of the unprofessional and regrettable comments are

1 something I'm not proud of, and I shouldn't have wrote
2 in the private or any type of setting.

3 Q Sir, at some point if I could turn your attention
4 to page 2540. And there's a photograph that's shared
5 within this text communication; is that correct?

6 A Yes, sir.

7 Q And does it indicate who shared that photograph?
8 From the prior page, possibly.

9 A The number ending in 5051.

10 Q And who is depicted in that photograph that was
11 shared within the group text?

12 A It's Ms. Read being escorted out of the state
13 police Milton barracks.

14 Q And these are all from February 1st of 2022,
15 around that time frame; is that correct?

16 A Yes.

17 Q Now, sir, if I could direct you to page 2543.
18 And, sir, if I could direct you to the top of the page
19 and ask you to read through that page indicating who's
20 speaking and what the content of those communications
21 were?

22 A The number ending in 4146 questioned, "Is that
23 chick a smoke?" Again, 4146, question mark. I respond,
24 "Eh." I respond again, "Nut bag as chief would say." I
25 also respond with, "She's got a balloon knot. It leaks

1 poo."

2 Q And what, if anything, is that in reference to?

3 A Again, to Ms. Read's some medical conditions
4 there. Again, unprofessional comment I should not have
5 made, and I'm not proud of.

6 Q As far as attitudes expressed within these text
7 messages and other text messages, what, if any, impact
8 did that have as far as your investigation was
9 concerned regarding Ms. Read?

10 A These juvenile, unprofessional comments have zero
11 impact on the facts and the evidence and the integrity
12 of this investigation. I said these unprofessional
13 comments, but they absolutely do not detract from the
14 integrity of the investigation or the facts and
15 evidence of it.

16 MR. LALLY: Your Honor, may I approach just to
17 retrieve?

18 THE COURT: Yes.

19 Q Now, Trooper Proctor, contained within these same
20 text messages amongst yourself and a variety of
21 different people from that same sort of iCloud era of
22 your personal phone, correct?

23 A Correct.

24 Q And among those on there are communications that
25 you had with members of the Canton Police Department?

1 A Yes.

2 Q And how would you characterize or what was the
3 general contents of communications that you had with
4 members of the Canton Police Department?

5 A One communication was to coordinate interview
6 times for firefighters and police officers and to set
7 up a conference room where those interviews could be
8 conducted. Obviously, the presence of Canton
9 detectives or any police officers were not going to be
10 sitting in on these interviews. Another communication
11 was to inquire of relevant security videos that are in
12 the area, their local department, they know the area
13 very well, so I had reached out and asked if there some
14 good cameras in the area that I had kind of an interest
15 in.

16 MR. LALLY: Your Honor, may I approach the
17 witness?

18 THE COURT: Yes.

19 Q I'm showing you another document. Do you
20 recognize that?

21 A Yes, I do.

22 Q What do you recognize that to be, sir?

23 A Text communications between my sister and I.

24 Q And that's your sister Courtney; is that correct?

25 A That's correct.

1 Q And similar to what I had asked you about the
2 prior packet as far as a first message sent, date and
3 time, last message sent, date and time, what is
4 indicated on this first page?

5 A First message sent date time December 10, 2021, at
6 9:33 p.m. Last message sent 8/30, 2022 at 8:48 p.m.

7 Q And 8/30, that's August 30; is that correct?

8 A I'm sorry. Yes, August 30, 2022.

9 Q And similar to the other messages, is there an
10 indication as far as how many number of messages were
11 sent between yourself and your sister over that time
12 period?

13 A Two thousand eight hundred and sixty-five.

14 Q And fair to say that the documents in front of you
15 do not contain 2,865 messages?

16 A Correct.

17 Q Now, just in reference to the first message on
18 page 2662, the first page in this packet. Do you see
19 that from December 10th of 2021, at approximately 9:33
20 p.m.?

21 A Yes.

22 Q And what does that indicate?

23 A A text message from my sister.

24 Q And what does it say?

25 A "I called earlier. Dolf(ph) earlier and Mom was

1 puking in the background."

2 Q And do you recall what that was in regard to?

3 A It sounds like my mother had a stomach bug.

4 Q And, sir, if I could direct your attention to page
5 2667. in these text messages from January 29, 2022,
6 between yourself and your sister Courtney, correct?

7 A Correct.

8 Q And if you could read from the top of the page
9 through the end, and please indicate to the jury as far
10 as who's talking and who's saying what.

11 A So I texted my sister at work, "What's up?" She
12 responds, "What? Why?" I respond, "Oh, just found a
13 frozen to death on a front lawn in Canton this morning.
14 Actually just interviewed Jen McCabe. Says she knows
15 you."

16 Q And knows you, who are you referring to?

17 A My sister.

18 Q And how did your sister respond to that?

19 A "Cut the shit." I responded, "You," and there was
20 a typo correction with my response to you. She
21 responded, "Yeah, she knows Jack very well. She's
22 really good friends with Julie." My sister continues
23 on, "Her sister is married to Brian Albert." My sister
24 asks, "Are you still working?" I says, "Yup, yup.
25 Going to be out for a while on a homicide."

1 Q And as far as your answers to those questions or
2 as far as your communications that you had with your
3 sister at this time on the afternoon of January 29,
4 what were those in regard to or why were you
5 communicating that to your sister?

6 A At that time, it was just in the news. I was just
7 kind learning all this while I was working. I obviously
8 didn't share anything specific. I wouldn't share
9 anything specific on cases with my family or anyone.
10 It was just kind of an overall innocent conversation.

11 Q Now, turning your attention to the next page 2669.
12 Again, if you could you read from that page as far who
13 was talking and what the content is?

14 A All right. My sister starts off, "The Canton thing
15 is a homicide." I respond and this is at 3:00 in the
16 afternoon on the 29th, "Don't say a word to anyone."
17 She said, "Of course not." I respond, "And the very
18 least, it's suspicious." She responds, "This is your
19 livelihood and then I would never mess with that."
20 Three-oh-seven I respond, "Julie and Chris were at the
21 bar with the victim and girlfriend. Got to interview
22 them."

23 Q I'd like to direct your attention to page 2672.
24 And these are messages from February 1, 2022; is that
25 correct?

1 A Correct.

2 Q And the one at the top starts about February 1,
3 5:57 p.m.; is that correct?

4 A Yes.

5 Q And again if you could read through as far as
6 who's speaking and what the contents of those messages
7 are?

8 A I texted my sister, "What's up." She responded,
9 "Nothing. I just saw Julie and she said when this is
10 all over she wants to get you a thank you gift," and I
11 respond, "Get Elizabeth one." Elizabeth's my wife. And
12 my sister responds, "Because I guess her and Chris were
13 friends with John and she's so proud of you for leading
14 this." And then she writes, "Elizabeth?" I respond
15 with, "She's been stuck with the kids for the last ten
16 nights." My sister responded with, "Yeah, but she knew
17 what life was like married to a cop."

18 Q And, sir, as far as the gift that's mentioned as
19 far as Julie Albert, is that anything that you have
20 received at any point in time?

21 A I never received a gift. I never asked for a
22 gift. My wife never received a gift. She never asked
23 for a gift.

24 Q How would you describe this context of this
25 conversation or why that's being discussed at this

1 time?

2 A Again, I don't know the thought process of my
3 sister and Julie as far as bringing that idea into --
4 of a gift into play. Like I said, I didn't ask for
5 one, I never received one, the same with my wife.

6 Q Now, sir, if I could turn your attention to 2676.
7 And, again, if I could ask you to start at the top of
8 the page and read through and just indicate as far as
9 who's saying -- who is speaking and what they're
10 talking about.

11 A I start out, "We write like eight to twelve
12 warrants on each case." My sister responded, "No, I
13 have no idea what the hell you do or how it works." And
14 I responded on the 10th at 7:36 p.m., "I'm starving but
15 I also just want to go home. Thanks, though." My sister
16 responds, "Yeah, but is dinner going to be waiting."
17 She responded with, "Ha-ha-ha." Then I responded,
18 "Yep," and then my sister responded with, "Okay. It's
19 fine. Mom and I just don't want to go home."

20 MR. LALLY: May I approach, Your Honor?

21 THE COURT: Yes.

22 MR. LALLY: May I approach the witness, Your
23 Honor?

24 THE COURT: Yes.

25 Q Showing you another document. Do you recognize

1 that?

2 A Yes, I do.

3 Q And what do you recognize that to be?

4 A This is private messages between my wife and I.

5 Q Again, what is your wife's name?

6 A Elizabeth.

7 Q And what, if anything, does that indicate as far
8 as dates and times and the number of messages involved?

9 A So the first message sent 5/20/2022 at 6:19 p.m.
10 The last message sent 8/31/2022 at 9:16 p.m.

11 Q And what, if any, indication does it give as far
12 as number of messages within that text chain?

13 A One thousand six hundred and thirty-two.

14 Q And of those 1,162, there's one message that's
15 listed on that; is that correct?

16 A Correct.

17 Q And what is the date and time of that message and
18 what does it say and who's speaking?

19 A This is me speaking on June 9, 2022 at 4:56 p.m. I
20 text my wife, "We're going to lock this whack job up."

21 Q And what are you referring in that text, sir?

22 A I'm referring to the arrest after Ms. Read was
23 indicted by the grand jury.

24 Q And again as far as the terminology that you use
25 in that text message to your wife, why is that?

1 A Again, unprofessional messages I should not have
2 sent. I don't have an explanation other than they're
3 regrettable and it's something I'm not proud of the
4 language I used.

5 MR. LALLY: May I approach to retrieve, Your
6 Honor?

7 THE COURT: Yes. All right. So, Trooper Proctor,
8 the jurors can't hear you. So speak directly into your
9 microphone the way I'm doing, okay?

10 THE WITNESS: Yes, Your Honor.

11 MR. JACKSON: May we approach?

12 (Sidebar commences:

13 THE COURT: So while we're here, Ms. Little, I'll
14 give you back three of the ones. I appreciate that.
15 What do you have, Mr. Lally, which one is this? Okay.

16 MR. JACKSON: This particular set of text messages
17 is not something I was intending to use. It does not
18 have anything to do with bias. It basically lays out
19 self-serving comments by him and his family about Karen
20 Read's guilt, the fact that she was drunk, the fact
21 that she is the person who did it. Basically, a
22 character assassinate. She's guilty. They talk about
23 the GoFundMe pages for the family.

24 THE COURT: So we have the document in front of
25 us. We can do pages -- based on the fact that the

1 defendant does not intend to get anything in here, how
2 do you think you can get this in, Mr. Lally?

3 MR. LALLY: I can move on. That's fine.

4 THE COURT: Okay.

5 MR. LALLY: I don't need to.

6 THE COURT: All right. So there's that.

7 MR. JACKSON: Thank you. That was easy. This is
8 your copy.

9 MR. LALLY: No, this is my copy.

10 MR. JACKSON: Oh, so it's ours. Okay. Thanks.

11 THE COURT: Thank you.

12 end of sidebar.)

13 Q Now, Trooper Proctor, are you familiar with
14 conversations that within these same text
15 communications from your personal phone with colleagues
16 of yours at the state police?

17 A Yes.

18 MR. LALLY: And, Your Honor, may I approach?

19 THE COURT: Yes.

20 MR. JACKSON: May I have a moment with counsel?

21 THE COURT: Okay.

22 MR. LALLY: Your Honor, may I approach the
23 witness?

24 THE COURT: Yes.

25 Q Showing you another document, sir.

1 Before I get into that, though, if I could, I'd
2 turn your attention back to some of the comments on the
3 language used in the January 29, and February 1, or 2,
4 text communications among your friend group.

5 With reference to that particular time frame and
6 the language that you used, what sort of information
7 had you gathered to that point, and why would you say
8 or use that particular language in your -- particularly
9 in your descriptions of the defendant?

10 A This was, you know, 16, 18 hours later, and we --
11 I conducted multiple interviews.

12 THE COURT: Speak up.

13 A Conducted multiple interviews. We knew Mr.
14 O'Keefe never went into Fairview Road. We knew there
15 was one shoe at the scene, one shoe at the hospital.
16 Mr. O'Keefe, based off Mr. O'Keefe's injuries, Ms.
17 Read's statements when Sergeant Bukhenik and I
18 interviewed her, her broken taillight, the missing
19 taillight, some taillight pieces found at the scene,
20 the compelling evidence pointing directly at Ms. Read
21 that she struck Mr. O'Keefe with her vehicle, led me
22 make to those comments. Whether, like I said it was
23 not professional comments, but based on the day's
24 investigation, it was clear that Ms. Read had struck
25 Mr. O'Keefe with her vehicle.

1 Q Sir, if I could turn your attention to the
2 documents before you. Do you recognize those?

3 A I do.

4 Q And as far as the participants in that particular
5 conversation, who were the participants listed there?

6 A It's Trooper David DiCicco and myself.

7 Q And Trooper DiCicco and yourself both work within
8 the same unit of the state police; is that correct?

9 A That's correct.

10 Q And beyond the professional relationship you have
11 with yourself -- between yourself and Trooper DiCicco,
12 how would you characterize your relationship generally
13 speaking?

14 A We're buddies, you know, we golf together, hang
15 outside of work, you know, our kids play together.
16 I'd, you know, we're friends.

17 Q Now within the -- again, as far as the first
18 message sent, date and time, and last message sent,
19 date and time within this conversation, if you could
20 describe that for the jury?

21 A First message sent, date and time, March 17, 2022,
22 11:08 a.m. Last message sent, date and time, August 18,
23 2022, 6:08 a.m.

24 Q And again the number of messages listed within
25 this text chain?

1 A Eighty-seven.

2 Q And fair to say the documents before you do not
3 contain 87 text messages, correct?

4 A That's correct, sir.

5 Q Now just in general terms if you have an
6 opportunity to just look at the first couple of pages
7 there. Fair to say those were just sort of jokes that
8 you have going back and forth between yourself and
9 Trooper DiCicco; is that fair to say?

10 A Yes.

11 Q Now, if I could turn your attention specifically
12 to page 2632. And these are text messages starting on
13 April 28, 2022, at 10:52 in the morning; is that
14 correct?

15 A I'm sorry. What was the time again, sir?

16 Q April 28, 2022, 10:52 a.m.?

17 A Yes, correct.

18 Q And again, sir, with reference to this page, if
19 you could read the content to the jury and please
20 indicate who is speaking at each respective times.

21 A Okay. I start out with, "Without a doubt, he's got
22 diarrhea of the mouth, too." Trooper DiCicco, "Rookie
23 move not getting -- not going into a meeting with the
24 M.E. and getting that homicide determination." I
25 respond, "Yuri and I had two conference calls with her,

1 sent her numerous photos, et cetera. We laid out the
2 entire case for her." Trooper DiCicco responds, "Not
3 good enough. Should've had me or Jeff do it." I
4 respond, "If you two did it, she would have made it
5 accidental or natural causes."

6 Q And can you explain the context of those
7 communications or what exactly is it that you and
8 Trooper DiCicco are talking about in that
9 communication?

10 A Okay. So the M.E. is the medical examiner. They
11 conducted the autopsy of Mr. O'Keefe. Within our
12 office, it's kind of --

13 THE COURT: Hold on. Wait for the ambulance and
14 then speak up. The jurors can't hear you way back
15 where the court officer is standing.

16 A So like I said, the M.E. stands for medical
17 examiner. They conducted the autopsy of Mr. O'Keefe.
18 I guess I'll address the conference calls. Sergeant
19 Bukhenik and I had with the medical examiner. The
20 doctor had some questions as to the facts in evidence,
21 kind of what had transpired which is common, you know,
22 even if it's a homicide, I've had many calls with the
23 medical examiner's office, even if it's a suicidal
24 overdose always, almost -- I wouldn't say almost --
25 always with a homicide, the doctor wants to know what

1 transpired. Trooper DiCicco and myself we kind of like
2 to bust each other chops, go back and forth. So that's
3 what he meant by saying, "Rookie move not going into a
4 meeting with the M.E. and getting that homicide
5 determination." The original determination came back --

6 MR. JACKSON: Objection.

7 THE COURT: Sustained. Next question, Mr. Lally.

8 Q Now as far as attending the autopsy, is that
9 something that typically someone within your office
10 would do -- within your unit would do with regard to
11 any sort of death investigation?

12 A Yes.

13 Q And do you know who attended the autopsy of Mr.
14 O'Keefe in this specific particular case?

15 A Trooper Connor Keefe.

16 Q And so as far as Trooper DiCicco's reference to
17 you not going in or Sergeant Bukhenik not going in, is
18 that what you believed Trooper DiCicco was referring to
19 in that message?

20 MR. JACKSON: Objection.

21 THE COURT: Sustained as to the form.

22 Q You indicated that you and Trooper DiCicco bust
23 each other's chops; is that fair to say?

24 A Yes.

25 Q And can you describe a little more, expound upon

1 that as far as the nature of your relationship, and
2 sort of the text messages that you exchanged on this
3 and any other communications that you had?

4 A Basically just, you know, kind of needling each
5 other and him doing that is by saying texting me,
6 "Rookie move not going into the meeting with the
7 medical examiner." So that's a perfect example of him
8 kind of just needling me, which we do on a daily basis.

9 Q And as far as your interpretation of that, did you
10 interpret that as a serious comment or something said
11 in jest?

12 A I interpreted that as a typical joke from Trooper
13 DiCicco.

14 MR. LALLY: Your Honor, may I approach to
15 retrieve?

16 THE COURT: Yes.

17 MR. LALLY: May I approach, Your Honor?

18 THE COURT: Yes.

19 Q Showing you another document. Asking if you
20 recognize that.

21 A Yes.

22 Q What do you recognize that to be?

23 A Text messages between myself and Trooper DiCicco.

24 Q And again, what is the first message sent, date
25 and time, last message sent, date and time, the number

1 of messages contained therein?

2 A First message sent, date and time, April 28, 2022
3 at 1:09 p.m. Last message sent, date and time, April
4 28, 2022, 4:45 p.m.

5 Q And the number of messages, sir?

6 A Four.

7 Q And if you could, read the contents of those
8 messages contained therein, and please indicate who's
9 speaking.

10 A So I start out, "Of course it's undetermined. She
11 was a whack job." Trooper DiCicco responds, "Dear God.
12 WTF. What the hell is inconclusive about the whole
13 thing?"

14 Q And as far as your indication there as far as she
15 was a whack job, who are you referring to there?

16 A Ms. Read.

17 Q And now as far as the undetermined of what you're
18 talking about, what is sort of the content or the
19 context of this conversation?

20 A That would be the manner of death was determined
21 to be undetermined by the medical examiner's office.

22 Q And so I ask you again as far as your reference
23 there at the bottom of the first page as far as she was
24 a whack job, who do you believe you're referring to
25 there?

1 A Again --

2 Q Ms. Read or the medical examiner?

3 A Ms. Read.

4 MR. LALLY: May I confer with co-counsel, Your
5 Honor?

6 THE COURT: Yes.

7 MR. JACKSON: Your Honor, may we approach briefly
8 on this packet?

9 THE COURT: Jurors, feel free to stand up and
10 stretch if you'd like.

11 (Sidebar commences:

12 MR. JACKSON: Your Honor, there's portions of this
13 that I have no problem with. There's portions that
14 appear to be tabbed by Mr. Yanetti - I'm sorry - Mr.
15 Lally that appear to be bad character evidence of the
16 defendant and nothing more.

17 THE COURT: So I did not see a copy of this today.
18 That's okay.

19 MR. JACKSON: If we just -- there's only four tabs
20 or three tabs. I think we can --

21 THE COURT: Why don't you tell us what you intend
22 to get into with this witness, Mr. Lally. I did read
23 this again yesterday. I know it's part of the exhibits
24 of the grand jury.

25 MR. LALLY: Starting at --

1 THE COURT: You have to keep your voice up.

2 MR. LALLY: Sure. Starting at the bottom of this
3 page 2644, more references to medical condition. There
4 is some reference to the statements that she made back
5 at the Milton barracks, which is already in evidence.

6 THE COURT: So now you're on page --

7 MR. LALLY: Two-six-four-five.

8 THE COURT: So you intend to get into that whole
9 page? Are you objecting to this?

10 MR. JACKSON: From -- I don't know what -- it was
11 on BWC -- I don't know what that means.

12 THE COURT: Body worn camera.

13 THE COURT REPORTER: I'm having trouble.

14 MR. JACKSON: Sorry. From the BWC coming down
15 underneath it, I don't have any problem. And I was
16 probably going to bring up some of this.

17 THE COURT: Okay.

18 MR. JACKSON: It's the previous page that I think
19 threw me off.

20 THE COURT: All right. On page 2644, what do you
21 intend to get into, Mr. Lally?

22 MR. LALLY: Just the last -- his communication
23 there.

24 THE COURT: I'm going to allow that.

25 MR. JACKSON: I don't care about that.

1 THE COURT: Okay. So the other two tabs, one tab?

2 MR. JACKSON: The other -- the last one goes --

3 THE COURT: Page numbers?

4 MR. JACKSON: This is I think 2646. She seemed
5 more concerned about --

6 THE COURT: That's on the body worn camera, right?
7 It's not in evidence right now. But that was something
8 you saw?

9 MR. JACKSON: Well, no. It's a comment that he
10 believes in his mind she's more concerned with her
11 outfit than being arrested. That's just bad character
12 and then he follows it with, "Fuck her and she's
13 crooked."

14 THE COURT: "She's cooked."

15 MR. JACKSON: Sorry. Sorry. Cooked.

16 THE COURT: All right. Hold on.

17 MR. JACKSON: None of this is relevant.

18 THE COURT: I agree on your case in chief those
19 three lines on page 2646 cannot come in.

20 MR. JACKSON: Okay. I mean, based on the
21 representations, that's fine.

22 THE COURT: All right. All set?

23 MR. LALLY: Sure.

24 MR. JACKSON: Thank you.

25 end of sidebar.)

1 MR. LALLY: May I approach the witness, Your
2 Honor?

3 THE COURT: Yes.

4 Q Sir, handing you another set of documents. Could
5 you view those and look up when you're finished.

6 Do you recognize those, sir?

7 A Yes, I do.

8 Q And what do you recognize those to be?

9 A Another text thread between myself, Trooper
10 DiCicco, and Trooper Kotkowski.

11 Q And Trooper Kotkowski is another trooper within
12 your unit in the state police; is that correct?

13 A Yes.

14 Q And again if you could read from the first message
15 sent, date and time, the last message sent, date and
16 time.

17 A First message sent, date and time 5/24/2022, 9:21
18 p.m. Last message sent, date and time 8/24/2022, 4:56
19 p.m.

20 Q And as far as the number of messages indicated
21 within this text chain between yourself, Trooper
22 Kotkowski, and Trooper DiCicco?

23 A Four hundred and ninety-four.

24 Q Fair to say the documents before you do not
25 contain 494 text messages, correct?

1 A Correct.

2 Q Just in reference to that first page 2635, first
3 message sent. That's May 24, 2022, around 9:21 p.m.;
4 is that correct?

5 A Yes.

6 Q And that's a message sent from Trooper Kotkowski;
7 is that correct?

8 A Correct.

9 Q And what is that?

10 A It appears to be a picture of a toy Santa Claus.

11 Q Now, sir, if I could direct your attention to page
12 2644. If I could direct you to the bottom of the page,
13 sir. Do you see the text from yourself on June 9,
14 2022, at 11:19 p.m.?

15 A Yes.

16 Q Very bottom of the page.

17 MR. LALLY: Your Honor, may I approach just to
18 point it out?

19 THE COURT: Yes.

20 A Yeah, I see it, sir.

21 Q (Indicating.)

22 A Okay.

23 Q If you could read what you wrote on June 9, 2022,
24 around that time, sir?

25 A "If you like women who shit themselves."

1 Q And again, sir, what is it that you're referring
2 to there?

3 A Again, a regrettable comment I made about Ms.
4 Read's medical condition.

5 Q Now, if I could direct you to the following page
6 2645. And, again, if you could read from that page as
7 far as who is -- and indicate to the jury who is
8 speaking and what is being said on page 2645.

9 A I'm speaking right now. "The statement she made
10 tonight at H7 was mental. Thank Christ it was on BWC,"
11 which is body worn camera. Trooper Kotkowski responds,
12 "That's her. Smoke." Trooper Kotkowski again, "What
13 did she say?" I respond, "Said the Alberts beat the
14 shit out of O'Keefe, left him for dead and that's why
15 her taillight was cracked. She's gross." Trooper
16 DiCicco, "Oh, fuck her. Bitch."

17 Q Thank you, sir.

18 MR. LALLY: May I approach to retrieve, Your
19 Honor?

20 THE COURT: Yes.

21 Q And, sir, with reference to that last bit as far
22 as June 9, 2022, what was going on that day in
23 reference to this matter again?

24 A Ms. Read was being processed at the Milton
25 barracks.

1 MR. LALLY: Thank you. If I may have just a
2 moment, Your Honor.

3 THE COURT: Yes.

4 MR. LALLY: May I approach?

5 THE COURT: Yes.

6 Q Showing you another set of documents. Do you
7 recognize those?

8 A I do.

9 Q What do you recognize those to be?

10 A Another text thread with members from my office,
11 troopers.

12 Q And who are the troopers that are listed within
13 that?

14 A Trooper Chris Moore, Trooper Jeff Kotkowski,
15 Lieutenant John Fanning, Trooper Dave DiCicco, and
16 Yuriy Bukhenik.

17 Q And what is the first message sent, date and time?

18 A That would be 5/26/2022 at 8:19 p.m. Last message
19 sent, date and time 8/26/2022, 5:36 p.m.

20 Q And what is listed as far as the number of
21 messages within this chain?

22 A Six hundred and fifty-one.

23 Q And fair to say the documents before you do not
24 contain all 651 of those messages within this chain; is
25 that correct?

1 A Correct.

2 Q Now, sir, if I could direct your attention to page
3 2682. Do you see a message sent from Trooper DiCicco
4 on August 17, 2022 at 9:42 p.m.?

5 A Yes.

6 Q And is that an image contained on the next page
7 which is 2683?

8 A Yes, it is.

9 Q And what is the image of?

10 A That is a picture of Mr. Yanetti. It appears to
11 be from quite some time ago.

12 Q Now turning your attention to the next page 2684.
13 And there's a response from you August 17, 2022, at
14 9:44 p.m.; is that correct?

15 A Sorry, sir. What's the date and time, again,
16 please?

17 Q Sure. Page 2684, 8/17/2022, 9:44 p.m.

18 A Yes.

19 Q You see there's like sort of three responses from
20 you?

21 A I have you now.

22 Q If you could just read the three responses from
23 yourself, sir?

24 A Okay. These came from me. "Funny. I'm going
25 through his retarded client's phone. No nudes so far.

1 I hate that man. I truly hate him."

2 Q Now with reference to the investigation, at this
3 point when you're talking about his client's phone, who
4 are you referring to?

5 A Ms. Read.

6 Q And with regards to the phone at that point, can
7 you describe for the jury sort of what's going on
8 during this time period of August 17, 2022, in regard
9 to Ms. Read's phone?

10 A So after obtaining a search warrant for Ms. Read's
11 phone, we were unable to extract any data from it until
12 August of 2023. Troopers in my office knew I was going
13 through the phone that evening. I was most interested
14 in location data, text messages, Google searches. That
15 was the update I gave the troopers in the office. It
16 was a distasteful joke. I should have gave a proper
17 update instead of that. I wasn't able to go through
18 the phone as thoroughly as possible because I came
19 across some -- a text between her attorney and Ms.
20 Read. So I had to stop going through her phone, and I
21 made my supervisor aware of those communications.

22 Q Now, just to reference what you had just said.
23 This is in August of 2022; is that correct?

24 A Correct.

25 Q So after a search warrant is obtained for the

1 defendant's phone, where did it go? You indicated
2 communicate you gave it to Trooper Guarino, and where
3 did it go from there?

4 A Trooper Guarino essentially hooks it up to a
5 device called Graykey where it tries every possible
6 combination passcodes in order to access the data
7 contained in the phone.

8 Q And at that time when you retrieved it pursuant to
9 the search warrant, you didn't have the passcode to the
10 defendant's phone; is that correct?

11 A Correct.

12 Q So that device was designed to sort of go through
13 numbers and try to find a combination to get into the
14 phone, correct?

15 A Correct.

16 Q And so from the time that you had seized it in
17 late January or on January 29, 2022, until this date in
18 August of 2022, had you been able to get into the phone
19 or see anything in the phone in those intervening
20 months or seven months between January and August?

21 A No.

22 Q And so then at this time that you're sending this
23 text message in August of 2022, is that around the time
24 that you were first able to access the phone?

25 MR. JACKSON: Objection, Your Honor.

1 THE COURT: I'll allow it.

2 A Yes, that was the first time we were able to have
3 access to the phone.

4 Q And with reference to your access to the phone,
5 were you looking for nudes or anything like that in
6 regard to the defendant?

7 MR. JACKSON: Objection.

8 THE COURT: I'll allow it.

9 A No. As I stated, I was most interested in Ms.
10 Read's location data, text communications, Google
11 searches, things of that nature. More evidence
12 contained within the phone.

13 Q And so, sir, you mentioned at some point you came
14 across some information that caused you to sort of
15 freeze you're looking through the phone; is that
16 correct?

17 A Yes.

18 Q And so as far as that specific time period in
19 August of 2022, when was the next time that you or any
20 troopers from your office were able to actually look at
21 any extraction of the defendant's phone?

22 A So once I came across that text communication, it
23 took place on the 29th between Ms. Read and her
24 attorney, the phone had to be sent off to what they
25 call a taint team to remove any attorney-client

1 privilege information from the phone, and then it would
2 be returned to us as well as defense received a copy of
3 that as well. I'm not positive on the time. It was
4 quite -- it was quite a long turnaround for that
5 process to have -- to be complete -- completed.

6 Q Sometime at least in the spring or summer of 2023;
7 does that sound about right?

8 A That's sounds about right.

9 MR. LALLY: May I approach to retrieve, Your
10 Honor?

11 THE COURT: Yes.

12 MR. LALLY: May I have one moment, Your Honor?

13 THE COURT: Yes.

14 MR. LALLY: Thank you, sir. I have no further
15 questions, Your Honor.

16 THE COURT: All right. So I'm going to see you at
17 sidebar so I don't interrupt your cross.

18 (Sidebar commences:

19 THE COURT: So what are we going to do about
20 scheduling?

21 MR. JACKSON: I don't have to check my phone. I
22 turned it off during session out of respect for the
23 Court, but I can go turn it on real quick and see --

24 THE COURT: Why don't you go get it and bring it
25 over here.

1 MR. JACKSON: Sure.

2 THE COURT: Okay.

3 MR. JACKSON: Sure.

4 end of sidebar.)

5 THE COURT: Jurors, we're trying to figure out
6 scheduling.

7 (Sidebar commences:

8 MR. JACKSON: It just needs to power up.

9 THE COURT: Sure. So you've got people flying in
10 Wednesday for Thursday.

11 MR. LALLY: Correct. And actually, I had a chance
12 to speak with one of the advocates in reference to
13 that. So the Bode personnel is a little more
14 problematic than I had even understood.

15 THE COURT: Okay.

16 MR. LALLY: So one of them, Mr. Bradford, is
17 actually flying in Thursday morning and flying out
18 Thursday night. And the other, Ms. Chart, is also --
19 she's flying in Wednesday night and flying out Thursday
20 night.

21 THE COURT: All right. So you need both of them on
22 Thursday?

23 MR. LALLY: I do.

24 THE COURT: Okay.

25 MR. LALLY: And then with reference to Ms. Hyde, I

1 had her scheduled for Friday --

2 THE COURT: What's she testifying to?

3 MR. LALLY: She is one of the independent experts
4 we retained in regards to Ms. McCabe's search.

5 THE COURT: Okay.

6 MR. LALLY: So her issue is that she is available
7 this week but not next week, so I really need to get
8 her in on Friday.

9 MR. JACKSON: He just -- Dr. Wolfe just texted me
10 and said, "I presumed you were in court. Give me a
11 call when you're available."

12 THE COURT REPORTER: I'm getting an interference
13 from the phone.

14 MR. JACKSON: I'm so sorry.

15 THE COURT REPORTER: That's okay.

16 MR. JACKSON: Hold that. He texted something to
17 the effect of, I presume you're in court, but give me a
18 call when you have a chance. So he's asking me to call
19 him. I'm happy to do that. I don't want to take up
20 anymore of the Court's time, but I will -- I can --

21 THE COURT: They're only in Pennsylvania, right?

22 MR. JACKSON: They're in Pennsylvania, yes. Wolfe
23 and Renschler are both in Pennsylvania.

24 THE COURT: All right. So what was the medical
25 doctor?

1 MR. JACKSON: Her issue is that she is -- she
2 already has a flight out here for other purposes.
3 She's going to New York.

4 THE COURT: Okay.

5 MR. JACKSON: I want to say out here-ish Wednesday
6 night, and she was just going to coordinate it with
7 somebody that she has meetings with today and tomorrow
8 to make sure that she's going to be done, she's going
9 to be able to make that flight on Wednesday, which
10 would make her in New York on Thursday and available on
11 Friday. So if the Court wishes, I can try to push Dr.
12 Renschler and Dr. Woolf to Friday instead of Wednesday.

13 THE COURT: Except you've got Ms. Hyde who has to
14 testify on Friday.

15 MR. LALLY: Correct.

16 THE COURT: And then she's gone, right?

17 MR. JACKSON: We are not going to be all day on
18 voir dire on these three witnesses by any means. It
19 may be more than a half day but it won't be all day.
20 So I don't see Ms. Hyde being interrupted.

21 THE CLERK: We have a half day on Friday, right,
22 or is that the 21st?

23 MR. JACKSON: No, we've got a full day on Friday.

24 THE CLERK: Okay.

25 THE COURT: Can you get the Pennsylvania guys here

1 on Wednesday?

2 MR. JACKSON: As soon as I make a phone call, I'll
3 be able to tell you.

4 THE COURT: And the medical doctor Friday and you
5 can still have Ms. Hyde Friday. I didn't want to break
6 up the experts. I didn't want to do separate days, but
7 it looks like we might have to, and I was thinking it
8 was in terms of the new medical doctor seems more
9 pressing than the others.

10 MR. JACKSON: But she's also shorter. I mean,
11 she's literally going to talk about some scratches.

12 THE COURT: And where she got the information and
13 all that kind of stuff, right?

14 MR. JACKSON: Correct.

15 THE COURT: So you're still presenting your case.
16 What is it that you'd like to do this week?

17 MR. LALLY: My preference, and I'm obviously very
18 mindful of this issue, my preference would be to
19 continue on with my case this week if - depending on
20 how quickly we go. I mean, I think we could be close
21 to finishing on the 17th. My preference would be to
22 dedicate the 18th to this and then the Juneteenth
23 holiday, the following day, we're off anyway giving
24 sort of a buffer of a couple of days in between, then
25 the Commonwealth rests, and the defense starts putting

1 their case on the 20th.

2 MR. JACKSON: I can have everybody out there then.

3 THE COURT: But you do have a motion. So aside
4 from the voir dire, I have to make a decision on this.

5 MR. JACKSON: Of course. Of course.

6 THE COURT: So that's why I don't want to rush.

7 MR. LALLY: And I understand. And I don't want to
8 put the Court in a position.

9 THE COURT: And I also don't want to be in a
10 position where the Commonwealth is looking for a
11 continuance for a rebuttal expert based on what you
12 hear from the medical doctor this week. So those are
13 all reasons I'd like to get it done sooner rather than
14 later.

15 MR. LALLY: I understand. I don't foresee that
16 happening.

17 THE COURT: Okay. All right. So we'll just plan on
18 going forward the rest of the week. I wouldn't mind
19 being able to do that medical doctor on Friday
20 afternoon, if you finish.

21 MR. LALLY: That's fine.

22 THE COURT: Where she's here.

23 MR. JACKSON: And just get her out of the way.

24 THE COURT: Okay. So why don't we plan on that and
25 see how the evidence goes and then we'll use either the

1 morning of the 18th or even a full day on the 18th to
2 do the others.

3 MR. JACKSON: Okay.

4 THE COURT: Because I would assume all of you want
5 that.

6 MR. JACKSON: Right. So with the -- if I'm hearing
7 the Court right, then I'll just shift everybody except
8 the Dr. Russell to coming out here to prepare for
9 testimony on the 18th.

10 THE COURT: Right.

11 MR. JACKSON: Okay.

12 THE COURT: And she's here anyway, so let's try
13 to --

14 MR. JACKSON: She's --

15 THE COURT: -- get here on Friday, and if we don't
16 reach her, she comes back on the 18th as well.

17 MR. JACKSON: Okay.

18 THE COURT: All right. So we'll tell the jurors
19 for the rest of this week, we'll be in session. Maybe
20 they'll get an afternoon off aside from tomorrow.

21 MR. JACKSON: Does the Court want me to start, or?

22 THE COURT: Yeah. Unless you don't want to.
23 Would you prefer to wait?

24 MR. JACKSON: No, I'd like to start.

25 THE COURT: Good. I'd like you to get started.

1 MR. JACKSON: Okay.
2 end of sidebar.)

3 THE COURT: All right. So just before you start
4 then so we'll finish at 4:00. We're trying to figure
5 out the schedule and the time they're going to need
6 with the lawyers and the witnesses. We're trying to
7 work all that out. But as it looks right now, I
8 thought it was going to interfere with another date
9 this week. As it looks right now, it may not. At the
10 most, it will be half an afternoon or something maybe
11 on Friday, but it does now look good that we'll be able
12 to continue with this. We're out tomorrow, but
13 Wednesday, Thursday, Friday we'll be full days, and
14 we'll be able to keep moving.

15 All right. Mr. Jackson, go right ahead.

16 MR. JACKSON: Thank you, Your Honor.

17 **CROSS-EXAMINATION**

18 **BY MR. JACKSON:**

19 Q Trooper Proctor, in the summer of 2022, August 17,
20 specifically, you were sitting at your desk presumably
21 alone at your office at about 10:00 p.m. at night going
22 through my client's personal cell phone, correct?

23 A Yes, sir.

24 Q As a matter fact, you were sitting there texting
25 with your friends and colleagues at Massachusetts State

1 Police about you going through her personal cell phone;
2 is that right?

3 A Correct, sir.

4 Q And that included Trooper DiCicco; is that right?

5 A DiCicco, yes, sir.

6 Q Trooper Fanning, Trooper Bukhenik, Trooper Moore,
7 and Trooper Kotkowski.

8 A Kotkowski.

9 Q Tell me that again.

10 A Kotkowski.

11 Q Kotkowski

12 A Yes, sir.

13 Q All the consonants are silent. Fair enough.

14 Trooper Fanning and Trooper Bukhenik are your
15 supervisors?

16 A Yes.

17 Q And you were bragging to all five of them that you
18 were going through Karen Read's cell phone at about
19 9:45 at night?

20 MR. LALLY: Objection.

21 THE COURT: I'll allow it.

22 Q Is that right?

23 A No, I wasn't bragging, sir.

24 Q How did you refer to Ms. Read in that text
25 exchange when you informed them that you were going

1 through her phone?

2 A I used regrettable language. I said going through
3 his retarded -- retarded client's phone right now.

4 Q You were shown a photograph of my colleague Mr.
5 Yanetti, correct?

6 A Yes.

7 MR. JACKSON: May I approach?

8 THE COURT: Yes.

9 Q Same document --

10 MR. JACKSON: Your Honor, I think the Court has
11 the copy that I was going to use --

12 THE COURT: Oh, I thought I gave it back to you.

13 MR. JACKSON: -- for cross-examination.

14 Q You had received a photograph --

15 MR. JACKSON: Actually, Your Honor, if I could, I
16 would ask that this document be marked as next in
17 order, assuming that the witness verifies its
18 authenticity.

19 THE COURT: So go ahead.

20 Q Do you recognize this document?

21 A I do, sir.

22 Q Same document that you were shown -- a copy of the
23 same document that you were shown by Mr. Yanetti,
24 correct?

25 THE COURT: Mr. Lally.

1 MR. JACKSON: I'm sorry. I've done that twice.

2 Q Mr. Lally.

3 A Correct.

4 Q All right. Is that a true and accurate reflection
5 of the text messages that you were exchanging with
6 Chris Moore, Jeff Kotkowski, John Fanning, Vito
7 DiCicco, and Yuriy Bukhenik?

8 A Yes.

9 MR. JACKSON: I'd ask that this be marked.

10 THE COURT: Okay. Any objection?

11 MR. LALLY: Yes, Your Honor.

12 THE COURT: All right. I'll see you at sidebar.
13 May I have that, please, Trooper Proctor?

14 THE WITNESS: Yes, Your Honor.

15 (Sidebar commences:

16 THE COURT: What's the objection?

17 MR. LALLY: Your Honor, the objection is as far as
18 all of these communications are concerned, neither I
19 nor counsel know what the entirety of the conversations
20 are other than each one of these conversations seems to
21 have a list of a multitude of text communications that
22 are contained within a specific chain which are clearly
23 not representative of the entirety of what has been
24 provided. So if you're going to then take what someone
25 else selected out as differing text messages, I don't

1 even know if these were all the text communications
2 between these people on that particular date that it's
3 referring to. What I do know is that if there are, you
4 know, 851 text messages, let's say, in a given chain,
5 and we're provided 20, I don't see how that's a fair
6 and accurate portrayal of the text communications
7 between these parties.

8 THE COURT: What is it exactly that you want in?

9 MR. JACKSON: I want this entire document in. I
10 want the jurors to see the whole document, and I'll
11 refer to specific portions just as Mr. Lally has
12 referred to specific portions.

13 THE COURT: All right. I would not have let in the
14 photo, but Mr. Lally brought it up. I mean, that
15 doesn't go to bias, bias towards an attorney and bias
16 in the --

17 MR. JACKSON: No, we don't have any problem with
18 it.

19 THE COURT: -- to the prosecution.

20 MR. JACKSON: And we don't believe that the bias
21 is against Mr. Yanetti.

22 THE COURT: You just want it in because it's an
23 old picture. It's a flattering picture, Mr. Yanetti.

24 MR. YANETTI: Now I can tell that I look very much
25 older than that, so I'm not sure I want it in.

1 THE COURT: This extraction was done by whom?

2 MR. JACKSON: Defense.

3 THE COURT: And this was all that they gave you?

4 MR. JACKSON: Correct.

5 THE COURT: So --

6 MR. JACKSON: Which -- and I've got the exact same
7 documents that Mr. Yanetti just used and he picked and
8 chose those.

9 MR. YANETTI: Mr. Lally.

10 MR. LALLY: Again, I'm not Mr. Yanetti.

11 MR. JACKSON: I'm sorry. Both of you should be
12 offended. I'm really sorry. I don't know why that's
13 in my head. This is the exact same set of documents
14 that Mr. Lally just used, and picked and chose certain
15 excerpts from to read. The jurors are entitled to see
16 the actual document. There's no hearsay issue. It's
17 been authenticated. It's true and accurate. They can
18 see it in his own writing in terms of an iCloud
19 extraction.

20 THE COURT: It's not his writing. It's his typing.

21 MR. JACKSON: His typing, his words.

22 THE COURT: So do you intend to do this with all
23 of the path extractions or portions of extractions?

24 MR. JACKSON: Everything that I have in a packet
25 form, I intend or I have my goal is to mark and put

1 into evidence, and then I'll refer to certain of the
2 communications just as Mr. Lally did. My only
3 difference is I want to show the jurors the actual
4 document.

5 THE COURT: All right. I'm going to let you do it
6 for this one, and let me -- you won't have time to do
7 more than one today?

8 MR. JACKSON: No, I'm going to do this one.

9 THE COURT: And let me think about the others.
10 But you do intend on every one of them to put the
11 entire document into evidence?

12 MR. JACKSON: Correct. And there's about seven,
13 six, maybe. Maybe less. Five. Something like that.

14 THE COURT: All right. So I'll hear you on any
15 objection to that. Okay. But why doesn't this go to the
16 weight instead of its admissibility?

17 MR. LALLY: Well, my other issue just as far as
18 how that's constituted, the word "confidential" I think
19 needs to be blackened out.

20 THE COURT: I agree with that.

21 MR. JACKSON: I just can't do that.

22 THE COURT: No, I know, but Ms. Little's already
23 done it with --

24 MR. JACKSON: Confidential.

25 THE COURT: Yeah.

1 MR. LALLY: It's on every page.

2 MR. JACKSON: I thought you meant defense counsel.

3 THE COURT: No, no, you can't do that, but on the
4 top of every page.

5 MR. JACKSON: We can do that. Certainly, we can do
6 that overnight. It's not a problem.

7 THE COURT: All right. So --

8 MR. JACKSON: And I can have Mr. Bates draw it up.

9 THE COURT: Okay. All right. So your copy's going
10 in or Trooper Proctor's copy's going in?

11 MR. JACKSON: Trooper Proctor's copy.

12 THE COURT: Okay. All right. So we'll mark this
13 over your objection, Mr. Lally.

14 MR. LALLY: Understood.

15 THE COURT: And before the others, we'll readdress
16 this on Wednesday.

17 MR. JACKSON: Okay. Sounds good.
18 end of sidebar.)

19 THE COURT REPORTER: Five-six-seven, Your Honor.
20 (Whereupon Exhibit No. 567, Text Messages, was marked.)

21 THE COURT: And then I would ask you to give it
22 back to the witness, please.

23 MR. JACKSON: May I inquire, Your Honor?

24 THE COURT: Yes.

25 Q Trooper Proctor, Trooper DiCicco had sent you a

1 photograph of my colleague, Mr. Yanetti, correct?

2 A Yes.

3 MR. JACKSON: Your Honor, because of the technical
4 issue, I'm not going to display on the television. May
5 I display this hard copy briefly?

6 THE COURT: Sure.

7 MR. JACKSON: Thank you.

8 Q Do you see that gentleman?

9 A I do, sir.

10 Q Is that the photograph that you received?

11 A Yes.

12 Q Is that you referred to on direct examination with
13 Mr. Lally receiving a photograph from -- of Mr.
14 Yanetti?

15 A Correct.

16 Q And your response was what?

17 A "I hate that man. I truly hate that man."

18 Q Actually, your response was, "I'm going through
19 his retarded client's phone right now," correct?

20 A Yes, after the picture, sir, yes.

21 Q Who's the retarded client?

22 A I was referring to Ms. Read. Again,
23 unprofessional language.

24 Q I'm not asking you for an explanation. I'm asking
25 who you were referring to.

1 A Ms. Read.

2 Q I know you've got an explanation. Who is it you
3 were referring to as retarded?

4 A Ms. Read.

5 Q Karen Read, the woman sitting to my left?

6 A Yes, sir.

7 Q The subject of your investigation as a
8 professional, correct?

9 A Yes, sir.

10 Q As an unbiased objective investigator, the person
11 that you were investigating, you referred to your
12 bosses as retarded, correct?

13 A Again, poor language on my part.

14 Q Poor language is one way to put it. Completely
15 offensive is another way to put it, right?

16 MR. LALLY: Objection.

17 THE COURT: I'm going to sustain that, Mr.
18 Jackson.

19 Q After you refer to my client as retarded, then you
20 decided to make a comment about Mr. Yanetti, her
21 lawyer, correct?

22 A Correct.

23 Q And what did you say about Mr. Yanetti again?

24 A "I hate that man. I truly hate that man."

25 Q "I hate that man. I truly hate him," correct?

1 A Correct.

2 Q You didn't say I dislike him, I disagree with him.
3 You said, "I hate him," correct?

4 A Correct, sir.

5 Q That's a visceral response to someone who's just
6 doing a job, right?

7 MR. LALLY: Objection.

8 THE COURT: Sustained. You can ask it
9 differently.

10 MR. JACKSON: Sure.

11 Q Let me ask it this way. Were you upset or annoyed
12 or pissed off that Karen Read has gotten
13 representation, legal representation to represent her?

14 A No, not at all. That's her right.

15 Q Let me ask you this. In August of 2022, you said
16 you absolutely hate him, correct?

17 A I don't know if I used absolute. Yeah, I didn't
18 use absolutely, sir.

19 Q You used truly, correct?

20 A Truly, yes.

21 Q How do you feel about him now? He's sitting right
22 there.

23 A I still don't care for him, no.

24 MR. LALLY: Objection.

25 THE COURT: I'll let it stand.

1 Q What did you tell your colleagues you were looking
2 for as you sat at almost 10:00 p.m. at night, on a
3 Wednesday night August 17, 2022, looking through Karen
4 Read's phone?

5 A I didn't tell them I was looking through anything.
6 They knew I was going through Ms. Read's phone. I
7 provided an inappropriate joke as an update. They knew
8 I was going through location data, text messages,
9 Google searches. But like I had mentioned earlier, I
10 had to stop.

11 Q Except, Trooper Proctor, none of that really
12 professional sounding stuff ended up in your comments
13 to your bosses, did it?

14 A Again, it was a poor joke.

15 Q Is that yes or no?

16 A It did not, no.

17 Q It did not?

18 A No, sir.

19 Q As a matter fact, what did you write after you
20 talked about going through the quote, retarded client's
21 phone?

22 MR. LALLY: Objection.

23 THE COURT: I'll allow it.

24 A "No nudes so far."

25 Q "No nudes so far," correct?

1 A Correct.

2 Q And you said that to your bosses?

3 A Yes, sir.

4 Q You were looking for naked photographs of Ms. Read
5 on a Wednesday night as you sat in your office at 9:44
6 p.m., correct?

7 A No, not correct.

8 Q Let me ask you a question. Have you ever looked
9 for naked photos of a male suspect that you were
10 investigating?

11 A I don't look for naked photos in anyone's phones.

12 Q But you said you were looking for nudes of Ms.
13 Read, correct?

14 A Like I said, Mr. Jackson, it was an inappropriate
15 joke.

16 Q Sir, this is a citizen. She's a woman. You were
17 supposed to be objectively investigating. Does your
18 text message to your colleagues at the Massachusetts
19 State Police reflect an objective investigation of a
20 citizen?

21 MR. LALLY: Objection.

22 THE COURT: You can get part of that question and
23 ask it again.

24 Q Do you believe that your text messages were
25 reflective of an objective investigator?

1 MR. LALLY: Objection.

2 THE COURT: I'll allow that. Do you believe that,
3 Trooper Proctor?

4 A I believe poor jokes have -- and unprofessional
5 language have no bearing on the integrity and the facts
6 and physical evidence of this case.

7 Q It's not that they don't have any bearing on the
8 facts and integrity, it's that they have no place in a
9 professional investigation because it shows bias,
10 right?

11 MR. LALLY: Objection.

12 THE COURT: So I have to sustain that as asked.
13 Go ahead and ask it differently, Mr. Jackson.

14 Q You weren't so much as objectively investigating
15 Karen Read as objectifying her, correct?

16 MR. LALLY: Objection.

17 THE COURT: I'll allow that.

18 Q Isn't that right?

19 A Rephrase the question, please.

20 Q You weren't so much as objectively investigating
21 her as objectifying her in those moments, correct?

22 A Again, Mr. Jackson, it was a poor choice of words
23 and a joke that I should not have texted out, but from
24 the start of the investigation, we didn't know what we
25 had --

1 Q And your, Trooper Proctor, your point in saying,
2 "No nudes so far," to your colleagues at the
3 Massachusetts State Police would suggest that you went
4 looking for nudes and you would update them when you
5 found them, correct?

6 A Incorrect.

7 Q Well, let me ask you a question. Did you find any
8 nudes of Karen Read?

9 A Again, I didn't go through the photos, sir.

10 Q Did you find any nudes of Karen Read?

11 A I didn't go through the photos, sir. I came --

12 Q So you were unsuccessful in your quest.

13 A I came across text messages from Ms. Read to
14 another attorney on January 29, so I had to stop
15 looking through her phone.

16 Q So you got sidetracked before you could get to the
17 naked pictures of Ms. Read; is that what you're saying?

18 MR. LALLY: Objection.

19 THE COURT: Sustained.

20 Q To be clear, when you sent those text messages on
21 that group chat, those text messages included as we
22 said or as you said, not one but two of you
23 supervisors, correct?

24 A Correct.

25 Q Were you ever reprimanded for your conduct in

1 sending that text message?

2 MR. LALLY: Objection.

3 THE COURT: So that's sustained. Do we need to go
4 to sidebar based on what you told me earlier?

5 MR. JACKSON: We do not.

6 THE COURT: Okay. So --

7 MR. JACKSON: I'll ask it a different way.

8 THE COURT: Okay.

9 Q Did either Trooper Fanning or Trooper Bukhenik
10 dress you down in a responsive text message in that
11 text thread for doing something so abhorrent as looking
12 for nudes or referring to nudes of a female suspect or
13 subject of your investigation; did that ever happen?

14 A Not that I can recall.

15 Q As a matter fact in reference to one of the text
16 messages in this same string, your boss Yuriy Bukhenik
17 actually responded to the photo of Mr. Yanetti, didn't
18 he?

19 MR. LALLY: Objection.

20 THE COURT: I'll allow it.

21 A He did, sir. After you received the photo, that's
22 when you said, "Funny. I'm going through his retarded
23 client's phone," is that right?

24 MR. LALLY: Objection.

25 THE COURT: I'll allow this but not too many more.

1 MR. JACKSON: Sure.

2 Q Is that correct? It's on the top of page 2685?

3 A Yes, that's correct.

4 Q And Yuriy Bukhenik liked that comment, "Funny.
5 I'm going through his retarded client's phone," didn't
6 he?

7 A I see he laughed at an image here, sir. I can't
8 tell if he liked that comment, sir.

9 MR. JACKSON: May I approach?

10 THE COURT: Yes.

11 A I don't know if it's just because it's faded or --
12 yeah, my copy is faded.

13 Q Top 2685. You can use my copy if that helps.

14 A Thank you.

15 Q What do you see on the top of that page?

16 A That Sergeant Bukhenik liked it.

17 Q Liked what?

18 A The, "I'm going through his retarded client's
19 phone," sir.

20 MR. JACKSON: May I approach?

21 THE COURT: Yes.

22 Q I'll take my copy.

23 A There you go.

24 Q So your supervisors at Massachusetts State Police
25 not only didn't ride you for making comments like this,

1 they encouraged it?

2 MR. LALLY: Objection.

3 THE COURT: Sustained.

4 Q Trooper Proctor, this is your direct chain of
5 command, is that right, Yuriy Bukhenik?

6 A Yes, sir.

7 Q Did you believe that your conduct was a misuse of
8 your authority and power as you were going through her
9 phone in August of 2022?

10 MR. LALLY: Objection.

11 THE COURT: I'll allow it.

12 A No. I had a warrant signed by a district clerk --
13 Stoughton District Court clerk to go through Ms. Read's
14 phone. I don't think it was an abuse of power. I had
15 every right to go through that phone.

16 Q Did the warrant say anything about looking for
17 nudes of my client?

18 MR. LALLY: Objection.

19 THE COURT: Did it say anything about that?

20 THE WITNESS: No, Your Honor.

21 THE COURT: Okay. Next question.

22 Q So that would be an abuse of the power that was
23 given to you by the Court, correct?

24 MR. LALLY: Objection.

25 THE COURT: Sustained.

1 Q Trooper Proctor, you'd agree that the hallmark of
2 any good investigation, as you've been taught and
3 others in the Massachusetts State Police have been
4 taught, is that the investigation and the investigator
5 have to be fair. They have to be impartial. Would you
6 agree with that?

7 A Yes, sir.

8 Q Meaning that the investigation has to be free of
9 conflicts, right?

10 A Yes, sir.

11 Q The investigator has to be free of conflicts,
12 right?

13 A Yes.

14 Q The investigation has be free of bias; is that
15 right?

16 A Correct.

17 Q You can't be biased against the person that you're
18 investigating. That would compromise the entire thing,
19 wouldn't it?

20 A Yes.

21 Q Basically, you follow the evidence -- you're
22 supposed to follow the evidence wherever it takes you,
23 right?

24 A Correct.

25 Q Good or bad, top to bottom, just follow the

1 evidence and report it back. That's how an
2 investigation is supposed to be run, isn't it?

3 A Yes, sir.

4 Q And these are things that you learned early on at
5 Massachusetts State Police Academy and then in your
6 detective training; isn't that right?

7 A It is.

8 Q But literally it's part of an oath that you took
9 at the academy that you will, quote, faithfully and
10 impartially discharge and perform all of the duties
11 incumbent on you as a Massachusetts State Police
12 trooper, right?

13 A Yes, sir.

14 Q You swore that oath.

15 A I did.

16 Q When you start an investigation, everybody in that
17 investigation should be treated exactly the same.
18 Don't you think that's true?

19 A Correct.

20 Q Everybody -- have you ever heard the phrase,
21 "Everybody's a suspect until they're not?"

22 MR. LALLY: Objection.

23 THE COURT: Sustained.

24 Q It's especially important early in an
25 investigation before all of the facts are known that

1 the investigator is not compromised by bias or
2 prejudice, right?

3 A Correct.

4 Q Most important early in the investigation because
5 that's when the most things are up in the air. There's
6 the cloud, the fog of not knowing exactly what the
7 truth is, right?

8 MR. LALLY: Objection.

9 THE COURT: Sustained.

10 Q In other words, Trooper Proctor, you don't get to
11 pick a suspect and then try to find evidence to support
12 your choice, right?

13 A Correct.

14 Q But in this case, that's exactly what you did,
15 isn't it?

16 A Absolutely not.

17 THE COURT: All right, Mr. Jackson, why don't we
18 end for today.

19 MR. JACKSON: This is as good of a place as any.

20 THE COURT: All right. So, folks, we're off
21 tomorrow. Those same three cautions: Please do not
22 discuss this case with anyone. Don't do any
23 independent research or investigation into this case.
24 If you happen to see, hear, read anything about the
25 case, please disregard it and let us know. We'll see

1 you Wednesday morning. So Wednesday, Thursday, Friday
2 right now, it's anticipated we'll be full days of
3 testimony with short lunch breaks. Okay. Thank you,
4 all.

5 (Jury out.)

6 THE COURT: All right. Trooper, same thing, you
7 can follow them out.

8 THE WITNESS: Thank you, Your Honor.

9 (Witness exits.)

10 THE COURT: All right. So one last time at sidebar
11 for scheduling, okay?

12 (Sidebar commences:

13 THE COURT: All right. So we're certainly not
14 holding you to anything yet.

15 MR. JACKSON: Oh, I'm sorry. I was turning the
16 phone on again. Sorry.

17 THE COURT: Not holding you to anything. How long
18 do you think you'll be with him?

19 MR. JACKSON: Three to four hours.

20 THE COURT: Okay.

21 MR. JACKSON: My outline is about 80 pages, and
22 that's about what it was with Brian Higgins. That's
23 the best I can estimate.

24 THE COURT: Okay. So that puts us end of day
25 Wednesday, probably.

1 MR. JACKSON: I think so.

2 THE COURT: Do you think we'll finish with him on
3 Wednesday?

4 MR. JACKSON: Yes.

5 THE COURT: Do you think we'll finish --

6 MR. JACKSON: I will finish with him on Wednesday.

7 THE COURT: You think we'll finish with him on
8 Wednesday, Mr. Lally, not Mr. Yannetti, Mr. Lally?

9 MR. YANNETTI: Thank you.

10 MR. LALLY: If it's four hours, I think, yeah,
11 I'll have plenty of time in the afternoon to move onto
12 other things.

13 THE COURT: Okay. Famous last words, but we'll
14 see. All right. Who do you have after him?

15 MR. LALLY: We have Lieutenant Tully and then
16 Trooper Paul.

17 THE COURT: Okay. So Lieutenant Tully. How long?
18 Tie up loose ends. There wasn't much independent work
19 done by him, was there?

20 MR. LALLY: No. So he is present for the SERT
21 search which I'm going to go through quickly, but then
22 there's also the Canton Public Library video as well as
23 the temple video, and that sort of then dovetails into
24 the RTT that he did with the defendant's phone as far
25 as location data and things like that.

1 THE COURT: All right. Who's doing the cross of
2 Tully? Okay. How long?

3 MR. JACKSON: Forty-five minutes to an hour.

4 THE COURT: All right.

5 MR. JACKSON: Focusing mostly on Mr. Tully's --

6 THE COURT: So potentially, we could finish
7 Wednesday afternoon/Thursday morning if you put on
8 Lieutenant Tully?

9 MR. LALLY: Oh, yes.

10 THE COURT: All right. And then who do you have?

11 MR. LALLY: So then it would be Mr. Corto --

12 MR. YANNETTI: Trooper Paul.

13 THE COURT: Trooper Paul.

14 MR. LALLY: -- from the state lab as well as
15 Trooper Paul.

16 THE COURT: Could I have Trooper Paul's report?

17 MR. LALLY: Of course.

18 THE COURT: It wasn't introduced to the grand jury
19 because it wasn't finished at the time, right?

20 MR. LALLY: Right.

21 THE COURT: All right. I would just like it in
22 advance if at all possible.

23 MR. LALLY: Sure. I have an extra copy.

24 THE COURT: You have an extra copy here today,
25 that would be great. If not, email it to Mr.

1 McDermott.

2 MR. LALLY: I can send it --

3 THE COURT: Is there any objection to me having a
4 copy of that report?

5 MR. JACKSON: Absolutely not.

6 THE COURT: It just makes things more move along
7 more quickly on evidentiary objections.

8 MR. JACKSON: I understand.

9 THE COURT: All right. So how long -- I've seen
10 him testify before. It takes a little while, right?

11 MR. LALLY: It does. This one I don't think is
12 terribly complex, so I think it'll be a little bit
13 quicker than you're probably used to seeing me do with
14 recon. So I would say probably an hour and half to two
15 hours at the most.

16 THE COURT: Who's doing the cross-exam?

17 MR. JACKSON: I am. An hour.

18 THE COURT: Okay. All right. So the longest, that
19 would be the end of day Thursday but you're hoping not.

20 MR. LALLY: So what I'm hoping is if we can finish
21 Lieutenant Tully on Wednesday, what I would probably do
22 is put Mr. Porto, who's the DNA from the state lab, on
23 first.

24 THE COURT: Okay.

25 MR. LALLY: Just because I think he's a little

1 quicker as opposed to have him sit downstairs while
2 Trooper Paul is on the stand for hours and hours. And
3 then Trooper Paul after that. Oh, I'm sorry. No, I'm
4 sorry. Thursday is --

5 THE COURT: Yeah, you got your other people.

6 MR. LALLY: So I might just do all the DNA and
7 then Trooper Paul after.

8 THE CLERK: Start with Bode at 9:00.

9 MR. LALLY: Well, I think -- the problem is I
10 think I need to get Mr. Porto on before we get to Bode
11 because some of that testing comes from what Mr. Porto
12 did at the state lab. And then I also have Sergeant
13 Gallerani because he's the -- does the buccal swabs.
14 But I still think I can get -- if we finish with
15 Lieutenant Tully on Wednesday, I should be able to get
16 Mr. Porto, Sergeant Gallerani, Mr. Bradford, and Ms.
17 Chart done in the morning.

18 THE COURT: I think that's extremely ambitious.

19 THE COURT REPORTER: Jimmy, the bags.

20 MR. LALLY: That would be my goal.

21 THE COURT: All right. Just try not to be
22 repetitive with Detective Lieutenant Tully.

23 MR. LALLY: Sure.

24 THE COURT: If there are things people have
25 already seen --

1 MR. LALLY: No.

2 THE COURT: -- and they're already in evidence, he
3 doesn't have to identify them again.

4 MR. LALLY: So there are a couple of physical
5 pieces of evidence from the 29th because they're the
6 ones who took them. So it would be Mr. O'Keefe's other
7 shoe and then a couple of pieces of the taillight. I
8 don't need him to take them out of the bag or any of
9 that kind of stuff unless counsel wants to --

10 THE COURT: Do we agree that they're in the bag?

11 MR. JACKSON: Yes.

12 THE COURT: Okay.

13 MR. LALLY: The shoe I would have to take out of
14 the bag just to match to the other shoe, but the
15 taillight, no.

16 THE COURT: All right. So hopefully you'll have
17 you doctor here on Friday afternoon. I'm not sure
18 we'll reach her.

19 MR. JACKSON: Okay.

20 THE COURT: We'll have a better idea Thursday, but
21 we need to get your people on and off, right?

22 MR. LALLY: Yes.

23 THE COURT: All right. Do you need me for
24 anything?

25 MR. JACKSON: No, Your Honor.

1 THE COURT: Okay. We'll see you Wednesday.

2 end of sidebar.)

3 (Court in recess.)

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C E R T I F I C A T I O N

I, CHRISTINE D. BLANKENSHIP, NOTARY PUBLIC, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT
FROM THE RECORD OF THE COURT PROCEEDINGS IN THE ABOVE-ENTITLED
MATTER UNDER THE DIRECTION OF NANCY KING, CVR.

I, CHRISTINE D. BLANKENSHIP, FURTHER CERTIFY THAT THE
FOREGOING IS IN COMPLIANCE WITH THE ADMINISTRATIVE OFFICE OF THE
TRIAL COURT DIRECTIVE ON TRANSCRIPT FORMAT.

I, CHRISTINE D. BLANKENSHIP, FURTHER CERTIFY THAT I NEITHER
AM COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF THE PARTIES
TO THE ACTION IN WHICH THIS HEARING WAS TAKEN, AND FURTHER THAT
I AM NOT FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF
THIS ACTION.

Christine D. Blankenship, February 15, 2025

CHRISTINE D. BLANKENSHIP, CVR, NOTARY PUBLIC